

# Education Mandated Cost Network

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## STAFF

County school districts,  
City offices of education,  
Statewide education  
organizations

August 4, 1999

Paula Higashi  
Executive Director  
Commission on State Mandates  
1300 I Street, Suite 950  
Sacramento, CA 95814

Re: Mandate Reimbursement Process Amendment of  
Parameters and Guidelines

Dear Ms. Higashi:

The Education Mandated Cost Network (EMCN) requests that the Commission on State Mandates (Commission) give consideration to amending the Parameters and Guidelines for the Mandate Reimbursement Process with the following language:

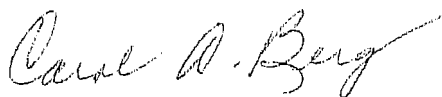
### D. Reimbursable Activities – Commission Business

All costs of participating in workshops conducted by the Commission or the Commission's staff, Commission rulemaking proceedings, and similar Commission business are recoverable by local agencies and school districts.

Participation in workshops, rulemaking proceedings are considered to be an element of the reimbursement process. The local costs for these activities would not have been incurred but for the state-mandated activities or but for the creation of the Commission.

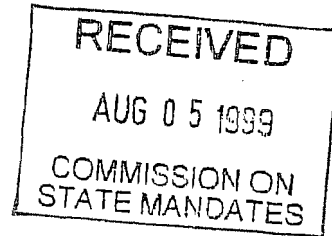
We wish to thank you for moving the hearing on the Parameters and Guidelines to the August meeting at our request and look forward to reviewing staff's reactions. This language is an effort to respond to the State Controller's need for clarification and specificity.

Sincerely,



CAROL A. BERG, Ph.D.  
Consultant

CAB/cjw



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California State Association of Counties  
SB 90 Service

AUG 20 1999  
COMMISSION ON  
STATE MANDATES

CSM 98-4485-PGA-D1

August 18, 1999

Paula Higashi  
Executive Director  
Commission on State Mandates  
1300 I Street, Suite 950  
Sacramento, CA 95814

Re: Mandate Reimbursement Process Amendment of  
Parameters and Guidelines

Dear Ms. Higashi:

The California State Association of Counties SB 90 Service and the California Cities SB 90 Service request that the Commission on State Mandates (Commission) give consideration to amending the Parameters and Guidelines for the Mandate Reimbursement Process with the following language:

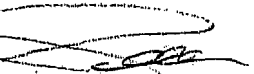
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All costs of participating in workshops conducted by the Commission or the Commission's staff, Commission rulemaking proceedings, and similar Commission business are recoverable by local agencies and school districts.

Participation in workshops, rulemaking proceedings are considered to be an element of the reimbursement process. The local costs for these activities would not have been incurred but for the state-mandated activities or but for the creation of the Commission.

The above language is identical to that submitted by the Education Mandated Cost Network. This language is an effort to respond to the State Controller's need for clarification and specificity. If you have any questions, please call either Pam Stone or me at 485-8102.

Sincerely,

  
Allan P. Burdick  
Services Director

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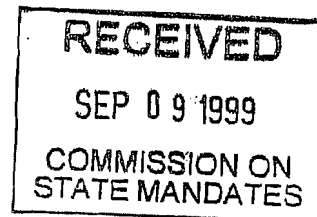
PUBLIC HEARING  
COMMISSION ON STATE MANDATES

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ORIGINAL

TIME: 9:45 a.m.  
DATE: August 26, 1999  
PLACE: State Capitol, Room 437  
Sacramento, California

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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Reported By:

STACEY L. HEFFERNAN CSR, RPR  
No. 10750

VINE, McKINNON & HALL (916) 371-3376

A P P E A R A N C E S

COMMISSIONERS PRESENT

ANNETTE PORINI, Chair  
Representative for B. TIMOTHY GAGE, Director  
State Department of Finance

ALBERT P. "AL" BELTRAMI  
Public Member

MILLICENT GOMES  
Representative for Loretta Lynch, Director  
State Office of Planning and Research

D. MICHAEL FOULKES  
Representative for KATHLEEN CONNELL  
Deputy Controller, Legislation

BRUCE VAN HOUTEN  
Public Member

JOANN STEINMEIER  
Public Member

COMMISSION STAFF PRESENT

PAULA HIGASHI, Executive Director

PAT HART JORGENSEN, Chief Legal Counsel

CAMILLE SHELTON, Staff Counsel

PIPER RODRIAN, Staff Services Analyst

PUBLIC TESTIMONY

JAMES A. CUNNINGHAM, Legislative Mandate Specialist  
San Diego City Schools, Education Center

CAROL A. BERG, Ph.D., Executive Vice President  
School Services of California, Inc.

JAMES M. APPS, Principal Program Budget Analyst  
State of California, Department of Finance

JOSEPH SHINSTOCK, Assistant Budget Analyst  
State of California, Department of Finance

ALLAN BURDICK, CSAC, League of Cities' Advisory on State  
Mandates

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A P P E A R A N C E S

PUBLIC TESTIMONY

ELIZABETH S. STEIN, Staff Counsel  
State of California, State Personnel Board

MARCIA C. FAULKNER, Manager, Reimbursable Projects  
Office of the Auditor/Controller-Recorder

DEE CONTRERAS, Director of Labor Relations  
City of Sacramento, Office of Labor Relations

EDWARD J. TAKACH, Labor Relations Officer  
City of Sacramento, Office of Labor Relations

PAMELA A. STONE, Senior Manager/Legal Counsel  
DMG Maximus

LEONARD KAYE, Certified Public Accountant  
County of Los Angeles

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1 MS. HIGASHI: Mr. Van Houten.

2 MR. VAN HOUTEN: Yes.

3 MS. HIGASHI: Ms. Steinmeier.

4 MS. STEINMEIER: Aye.

5 MS. HIGASHI: Chairperson Porini.

6 CHAIRPERSON PORINI: Yeah. *No*

7 All right. Thank you very much.

8 MS. STEINMEIER: And thanks, also, to the staff for  
9 the phenomenal effort that's gone into this staff analysis.

10 CHAIRPERSON PORINI: Just for the record,  
11 Mr. Burdick, so that Mr. Van Houten won't feel left out, he  
12 has joined us on numerous occasions when Mr. Sherwood has  
13 not.

14 MR. BURDICK: I apologize.

15 MR. BELTRAMI: Madam Chairman, may I just tell  
16 Ms. Contreras that everything that comes to courts are  
17 arcane.

18 MS. CONTRERAS: Thank you very much.

19 CHAIRPERSON PORINI: Okay.

20 MS. HIGASHI: Next is the Mandate Reimbursement  
21 Process. This item will be presented by Piper Rodrian of our  
22 staff. And I'd like to commend her. She's our staff person  
23 responsible for our consent calendar items.

24 MS. RODRIAN: Good morning.

25 These Parameters and Guidelines allow claimants to  
26 seek reimbursement for costs incurred during the mandate  
27 process. The original Parameters and Guidelines were adopted  
28 in 1986. Since 1995, staff has updated them annually to

1 include the language in that year's budget act.

2 The EMCN and CSAC have requested a further amendment  
3 to include reimbursement for participation and rulemaking  
4 proceedings, workshops and similar Commission business.  
5 Staff disagrees because these activities are not required nor  
6 are they tied to the resolution of the successful test  
7 claim.

8 Please state your name for the record.

9 MR. KAYE: Leonard Kaye, County of  
10 Los Angeles.

11 MS. BERG: Carol Berg, Education Mandated Cost  
12 Network.

13 MR. BURDICK: Allan Burdick on behalf of the  
14 California State Association of Counties.

15 MS. FAULKNER: Marcia Faulkner, County of  
16 San Bernardino.

17 MR. CUNNINGHAM: Jim Cunningham, San Diego Unified  
18 School District.

19 MR. BURDICK: Madam Chair and Members, this request  
20 by the local agencies, we see, has a need for clarification  
21 of the existing Parameters and Guidelines on this particular  
22 issue. There is being greater attention brought to what is  
23 actually in the Parameters and Guidelines and what is  
24 eligible and what we think is -- this is an area that may be  
25 not totally clear as to whether the eligibility or not in the  
26 past and so we wanted some clarification over it.

27 What these are are issues where primarily local  
28 government representatives are typically requested very often



1 sometimes to participate, or invited, or sometimes just  
2 attend at their own in order to be able to provide expert  
3 input to the Commission staff or to the Commission, sometimes  
4 a subcommittee of the Commission, on various items relating  
5 to the test claim process.

6           These are things that are not related to a specific  
7 test claim, so we're not able to deal with them in that  
8 particular process. Under the current rules relating to  
9 reimbursement of mandated costs by local agencies, there are  
10 various boxes and categories. Under test claims, you're  
11 eligible for reimbursement if you win and you're successful;  
12 if you lose, you aren't. You file a reimbursement claim,  
13 and, that activity, that is a reimbursable cost. If you do  
14 an incorrect reduction claim, again, if you win, you're  
15 reimbursed; if you lose, you're not.

16           The gray area -- as an example, last year, we had a  
17 series of hearings that were conducted by Commissioners  
18 Beltrami and Steinmeier on your regulations and how to  
19 improve them, how to make this process better. People were  
20 invited to attend and participate, provide input to the  
21 staff. The question comes: Is that time reimbursable for  
22 those local government members that are attending that in  
23 that process? And that's really kind of the issues we're  
24 looking at. Or, very often, the Commission staff will call a  
25 hearing or a workshop to deal with a particular item and are  
26 looking for input from local government to assist them in  
27 improving and developing the process.

28           Typically, there are not a lot of items, there are

1 not a lot of people there, this is not a big cost issue, but  
2 it is an issue that is unclear in the current Parameters and  
3 Guidelines. It also has a particularly, seems like, negative  
4 impact on, I think, Southern Californians because they have  
5 to experience typically more out-of-pocket costs, in terms of  
6 being able to come and participate.

7 And part of that also relates to -- in this process,  
8 normally you see us people at the subdepartment head level.  
9 As many of you know, as it relates to getting approval for  
10 travel and reimbursement of travel costs, it's much more  
11 difficult for people, I think, below the department head  
12 level, particularly in local government, than it is when you  
13 have to have much greater rationale to your people as to why  
14 they should do that.

15 So we've always felt that this is part of the  
16 process. It should be concluded. It's a few people who are  
17 actually giving a lot more time and effort, and we think  
18 benefit, not only to their jurisdiction but particularly to  
19 the state and other jurisdictions in this process, and we  
20 think it just should be part of the mandate reimbursement  
21 process.

22 Thank you.

23 CHAIRPERSON PORINI: Okay. Other comments.

24 Ms. Berg.

25 MS. BERG: Yes. Staff, out of hand, dismissed this  
26 as a reasonable request and cited the scope of the mandate as  
27 the basis for their decision. If you look at the scope of  
28 the mandate, as its stated in their own document, I'm not

1 sure why the logic doesn't continue to meet the kind of  
2 request that we are making.

3 The last sentence, under the scope of the mandate  
4 reimbursable cost, states --

5 MR. BURDICK: What page are you on?

6 MS. BERG: I don't have a Bates page.

7 MR. CUNNINGHAM: Seven, at the bottom.

8 MS. BERG: Seven, at the bottom.

9 The last sentence in that paragraph says, "Since  
10 local costs would not have been incurred for test claims and  
11 reimbursement claims but for the implementation of state  
12 imposed mandates, all resulting costs are recoverable." And  
13 the line just before that says, "Locals can't be made whole  
14 unless these things are included."

15 What we're asking is for clarification that would  
16 add one more little box to check, where you can check "Test  
17 Claims" or you can check "Incorrect Reduction Claims," or you  
18 can check -- what's the third one, "Reimbursement." And  
19 we're saying that there are, on occasion, reasons for people  
20 to participate. Granted, it's not a lot of people. I know  
21 for schools we have two or maybe three people here, and, of  
22 those two or three people, maybe one of them has incurred an  
23 overnight cost, that this should be a reimbursable part of  
24 this operation.

25 The other thing I would point out to you is that  
26 this isn't new precedent-setting or earth-straining material  
27 here. We did have training added. Training was not  
28 specifically spoken to in the mandate. Training was added

1 and is a reimbursable activity. And, if you read on page 8,  
2 the training says, "It includes the costs of classes designed  
3 to assist the claimant."

4 Now, again, we're not talking about a whole lot of  
5 money here, but we are talking about having a clear place for  
6 people to indicate that they did participate and be  
7 reimbursed.

8 Thank you.

9 MR. KAYE: I'd just like to add as sort of a  
10 footnote to Dr. Berg's remarks, that, if you go to Bates  
11 page 3, near the bottom, it says, "Participation in  
12 Commission workshops, rulemaking proceedings, and similar  
13 businesses is not state mandated nor is there any specific  
14 requirement to participate. Further participation in these  
15 activities is not tied to a specific test claim,  
16 reimbursement claims, or incorrect reduction claims."

17 Now, if that's a legal basis by which staff is  
18 making this recommendation, then I don't understand Bates  
19 page 8, which, again, just interpolating the remarks I just  
20 read, says, "Including the optional classes or reimburse " --  
21 in other words, we don't have to attend any training classes  
22 that's not state mandated.

23 And this, obviously to me, includes Commission  
24 workshops and proceedings, because I see them as designing  
25 to assist claimants in identifying, correctly preparing  
26 state-required documentation. That's what we talked about  
27 basically, for specific reimbursable mandates. And then, of  
28 course, all the other costs that are tenets.

1           Of course, with Commission workshops and proceedings  
2 and things of that nature, there are no costs to the state  
3 for, you know, various registration fees and so forth. But,  
4 nevertheless, the fundamental principal is that training is  
5 an optional activity that we engage in, frequently, in order  
6 to prepare better claims.

7           My last point being is: I searched throughout these  
8 Parameters and Guidelines recommended by staff and I couldn't  
9 find any specific exclusion. And if you'll -- those of you  
10 who have participated in this process for a long time know  
11 that, when it gets down to the State Controller's Office  
12 level and they're doing their dance review, if there's no  
13 specific exclusion in the Parameters and Guidelines, that  
14 leaves it a great source of, shall we say, controversy, if  
15 that's the basis of a reduction.

16           In other words, that specific exclusion is not  
17 included in these Parameters and Guidelines, as recommended.  
18 So I would, in any case, recommend that that be granted, if  
19 that's the will of the Commission.

20           MS. GOMES: I have a -- sort of a comment or a  
21 question.

22           CHAIRPERSON PORINI: Yes.

23           MS. GOMES: "Similar business" seems a little vague  
24 to me. If you guys can extrapolate on that, tell me what you  
25 mean by "similar business" and what sort of things would fall  
26 under that.

27           CHAIRPERSON PORINI: This is on page 2.

28           MS. GOMES: On page 2, yeah, where it says, "The

1 Commission workshops, rulemaking proceedings and similar  
2 business."

3 MR. BURDICK: Generally, these are -- from time to  
4 time, there's a need for a special discussion on an issue  
5 that Commission staff may request, or we identify something  
6 that is unclear and we want to get together and talk about  
7 it. We define these meetings in different ways. Sometimes  
8 we call them workshops.

9 Paula would be better, because she's more concerned  
10 about the legal nature of how she defines these and what we  
11 can say and not say. So, as a non-attorney, we put it in  
12 there to cover things generally versus -- you know, as I say,  
13 we always have to be very careful when we get together on  
14 these discussions or items or conducting business. But we're  
15 always looking at things.

16 The bottom line is: How to improve the process  
17 normally or to clarify issues of dispute that are general in  
18 nature and not linked to any specific test claim or specific  
19 item. And that's the problem is: When they're general in  
20 nature, there's no box to put them in automatically. And it  
21 becomes kind of an issue of: Are they eligible or not  
22 eligible?

23 So, yeah, we just put that in so we didn't get to a  
24 point of somebody coming back and saying, "Well, does that  
25 activity really fit?" This leaves the discretion to the  
26 controller in looking at that and saying, "Was that type of  
27 business consistent and seemed to be in-line with the other  
28 activities that are included in that process?"

1 MS. BERG: But I would also add -- Carol Berg,  
2 Education Mandated Cost Network -- I would also add that if  
3 that one phrase is a stumbling block, we could certainly live  
4 without it, because the whole purpose of this is that the  
5 Commission staff would be calling the meetings, so they can  
6 call them whatever they want.

7 MS. GOMES: Well, in that respect, then, when you  
8 said that you sometimes called the similar business  
9 "workshops," how does workshops -- I mean, is that a defined  
10 term?

11 MS. BERG: Well, Paula has used "workshop" or she's  
12 called it a special meeting to Sunset Review. You know, the  
13 terminology hasn't always been consistent, but we always know  
14 what it means.

15 MS. HIGASHI: Workshop is typically used to define a  
16 session where it's informal in nature, where all parties who  
17 are interested in the subject are invited. For instance,  
18 last year, we had a couple of workshops on AB 1963. All  
19 parties were invited to participate, including state agency  
20 reps., to really talk about the whole incorrect reduction  
21 claim costs as to figure out alternate ways of dealing with  
22 incorrect reduction claims, different ways the legislation  
23 might have to be changed or rulemaking could occur.

24 Another set of workshops occurred when we called  
25 workshops for Sunset Review purposes, and that was to  
26 systematically go through all of the Commissions' regulations  
27 last year. And, at those workshops, two members  
28 participated, Mr. Beltrami and Ms. Steinmeier.

1           Because of their participation, the workshops -- we  
2 issued warnings at the beginning saying, "Don't talk about  
3 anything specific, as we go through the regulations, that  
4 could be pending before the members." And that has often  
5 occurred in other meetings and workshops, as well.

6           We have always tried to schedule them on -- I should  
7 say during Commission meeting week when there are as many  
8 items on the agenda that would affect both cities, counties  
9 and school districts, so at least their travel has been  
10 covered.

11           MS. BERG: Or sometimes all but one night of it has.

12           MS. HIGASHI: And, typically, we have been trying --  
13 some of the workshops have admittedly occurred on Fridays.  
14 Many of them have occurred in the afternoon after the  
15 Commission meeting. Sometimes they're the day before. And  
16 it's just a variety of situations.

17           MS. GOMES: Obviously, when you say they're invited,  
18 it's voluntary?

19           MS. HIGASHI: Obviously.

20           MR. CUNNINGHAM: If I can address that, I'm not sure  
21 I would characterize it as voluntary. We have a  
22 constitutional right to reimbursement. And, many times, the  
23 subject matter of the workshop, or the subject matter of the  
24 other Commission activity or the regulation, might be very  
25 critical on our rights to reimbursement, and our  
26 participation isn't anything more than to try to protect that  
27 constitutional right to reimbursement. So I'm not sure that  
28 I would characterize it as voluntary. If we thought it was



1 an activity that had absolutely no effect on this process, we  
2 would not attend. Rarely, if ever, has that been the case.

3 So just like -- I mean, you can make the argument:  
4 We don't have to file test claims either, but we have to do  
5 that if we're going to protect our right to constitutional  
6 reimbursement. So, again, I take issue with that.

7 CHAIRPERSON PORINI: Democracy is an onerous  
8 process, isn't it?

9 MR. BELTRAMI: Are you folks reimbursed for this  
10 time right now?

11 MR. CUNNINGHAM: Yes.

12 MS. BERG: Yes. Well, Allan and I are not, but,  
13 yes, if it's directly tied to a test claim, than the  
14 participants, the parties, are reimbursed.

15 MR. BURDICK: If you win.

16 MS. BERG: If you win, that's true.

17 MR. BURDICK: But on this item, as an example, which  
18 is an amendment to an existing mandate, then that was a  
19 successful mandate, so their time is eligible for  
20 reimbursement at this particular hearing on this subject.

21 The discussion that went on before us, POBOR, if the  
22 Commission had ruled against us, all the time and effort that  
23 was spent and all the witnesses would have not been eligible.  
24 And we want to thank you for making all that --

25 CHAIRPERSON PORINI: Eligible. All right.

26 Other questions or comments?

27 MS. STEINMEIER: Yeah. First of all, I want to  
28 encourage people to come to the workshops, even though,

1 technically, it's a voluntary activity. I mean, it's in our  
2 interest to discuss as much as we can. Let's just be honest  
3 about it.

4 Now, No. 2, somebody hit a hot button with me when  
5 they said Southern California. What happens is: If we don't  
6 make it easy for Southern Californians to participate, what  
7 you'll end up with is a skewed representation of people.  
8 It's just a natural thing; look at the Commission.

9 And it is a sacrifice. And, also, maybe, the size  
10 of the local agency might also be affected. But it's a very  
11 small school district or a small city. If you want any  
12 representation from a variety of different kinds of people at  
13 workshops and those kinds of things, then we need to look at  
14 this seriously, because you may only get -- look at our test  
15 claimants. They tend to be the large ones because it takes a  
16 lot of money to undergo this.

17 But, if you want a broader range of representation  
18 at these workshops, we need to look at this. It's a bigger  
19 deal for a smaller jurisdiction to send someone to Sacramento  
20 to participate in a workshop. Now, we obviously have to have  
21 a legal justification to call this a reimbursable cost, so --  
22 and our staff has now said, no, they can't see one, but I do  
23 see an inconsistency, because some of the things that we do  
24 have in here are pretty close.

25 Now, for example, correct me if I'm wrong, if  
26 someone attends a workshop, let's say a local person from a  
27 school district or a city to understand the process, are they  
28 reimbursed for that?

1 MS. BERG: Yes.

2 MR. CUNNINGHAM: Yes.

3 MR. BURDICK: Yes, it's under training.

4 MS. STEINMEIER: But it might occur in Ontario,  
5 California for Southern Californians versus Sacramento?

6 MR. CUNNINGHAM: Correct.

7 MS. BERG: Right.

8 MS. STEINMEIER: So this isn't that much of a  
9 stretch to say, if the Commission is holding a workshop in  
10 Sacramento on general topics to do with improving our test  
11 claim process or improving our incorrect reduction claims,  
12 which is our current burden, shouldn't it be possible? And I  
13 think they're right. I don't think everybody is going to be  
14 clamoring to do this. Southern Californians do it because we  
15 know we're protecting our backsides. I think we need to  
16 seriously consider this as a possible addition.

17 MS. FAULKNER: Madam Chair, may I add a comment?

18 CHAIRPERSON PORINI: Yes.

19 MS. FAULKNER: I totally agree with everything else  
20 that has been said here at this table. I did want to add a  
21 couple of other points on behalf of San Bernardino County.

22 First of all, we believe that this is so critical to  
23 our ability to pursue successful test claims and  
24 reimbursement claims. I, personally, would not even attend  
25 these processes or attend these workshops unless I felt so  
26 strongly, because there's a whole lot of work back home that  
27 is not getting done when I come up here.

28 And, secondly, you know, we have seen where these

1 workshops do result in time savings. The workshop -- series  
2 of workshops we had on boilerplate language to the Parameters  
3 and Guidelines wasn't addressing just one individual test  
4 claim or parameters, but it has resulted in savings from  
5 everybody having to go through and read every single word on  
6 Parameters and Guidelines for -- after that point, which is  
7 one of the purposes of the workshop.

8           The other thing we feel very strongly with is:  
9 although, technically, it may be optional, but, if we fail to  
10 participate in the process, if we fail to take part in  
11 developing the procedures, if we fail to take part in  
12 reviewing and commenting on proposed regulations, we could be  
13 punished in the form of having our test claims or  
14 reimbursement claims denied.

15           In fact, that has, in fact, happened to some of our  
16 test claims. It was -- the actual regulations that were  
17 cited was a reason that one of the test claims was denied.  
18 So this is very inherently a part of the process, we  
19 believe.

20           Thank you.

21           CHAIRPERSON PORINI: All right. Thank you.

22           MR. CUNNINGHAM: If I could address Ms. Steinmeier's  
23 question on the legal basis: Again, we're dealing with the  
24 Parameters and Guidelines here, not a test claim.

25           The test claim found that the reimbursement process  
26 that was set up, this entire process, is a state mandated  
27 reimbursable new program. And what we're doing here with  
28 Parameters and Guidelines is trying to define what is the

1 most reasonable means and -- of carrying out that mandate, so  
2 the legal basis already exists.

3 This, we believe, is just an interpretation of that  
4 test claim finding in the Parameters and Guidelines. And we  
5 believe that there is a legal basis for you to do this  
6 action.

7 MS. BERG: Right.

8 CHAIRPERSON PORINI: Ms. Gomes.

9 MS. GOMES: I would tend to agree with Commissioner  
10 Steinmeier except for the "Similar Business." That just  
11 bothers me.

12 MS. BERG: Piece of cake. We can handle it. Strike  
13 it.

14 MR. CUNNINGHAM: What we mean is just substitute  
15 "Other Commission Directed Activities" or something along  
16 that line.

17 MR. BURDICK: Commission sponsored.

18 MS. BERG: Yeah.

19 MR. CUNNINGHAM: Or Commission requested.

20 MS. BERG: Commission sponsored.

21 CHAIRPERSON PORINI: Yeah. Why don't we just  
22 eliminate it.

23 Yes, Mr. Foulkes.

24 MR. FOULKES: And I have some concerns here. I tend  
25 to agree with the staff analysis on this, just because it  
26 seems to me there's a much brighter line between training,  
27 which seems very understandable how that fits both legally  
28 and public policy-wise, in terms of what should be

1 reimbursed, and a Commission workshop.

2           And I'll use the example that was used of the bill  
3 analysis workshops that occurred last year. There was  
4 some -- you know, it's a chicken and egg thing where often  
5 the various interested parties will want to have a meeting  
6 and ask the Commission to hold the meeting. So it's a  
7 question of whether this is something that is being done that  
8 is being forced or required, or if this really, you know,  
9 people want to get together and have a discussion about  
10 proposed legislation which is changing the laws and not  
11 necessarily reacting to an existing law that's out there,  
12 and whether or not -- I mean, again, it seems to me a  
13 slippery slope. If we have such general language, then,  
14 again, it puts the onus on the Commission staff as to -- you  
15 know, and a lot of pressure on them as to say, "Hey, you need  
16 to hold a workshop on this."

17           To address one of their concerns that was brought up  
18 about the work being done, whether or not it's reimbursed,  
19 you're still not at your office doing the work, so it  
20 seems -- I mean, it's unfortunate for all of us that we miss  
21 our other duties but that problem isn't solved whether or not  
22 you're reimbursed.

23           I understand the -- that, of course, it -- I mean,  
24 why this is here before us, but I guess I don't see, either  
25 legally or from a public policy standpoint, how -- if we do  
26 this. I can see a lot of problems down the road where now  
27 the Commission is going to be in a difficult position as to  
28 having to define what is a workshop that is for the required

1 purposes and what is a workshop just because people want to  
2 have a meeting.

3 And, then, of course, it puts, I think, people in  
4 the Controller's Office -- I mean, I'm not speaking on behalf  
5 of them, because that's their job, but it's tough figuring  
6 out which is which, you know, just because the Commission  
7 staff was there, was it sponsored? Was it not sponsored?

8 MR. BURDICK: I think there's a little  
9 misunderstanding on the example that was used. First of all,  
10 I know Paula would say she never sponsors or conducts a  
11 workshop on proposed legislation. We're talking about  
12 implementation, Commissioner Foulkes. That's the difference.  
13 This is after it was in place, how do we now implement it?  
14 What is the most practical way for the locals there?

15 We would not be requesting reimbursement for  
16 meetings that were, you know, called on proposed legislation.  
17 The meetings that we had, as an example with the Controller's  
18 Office, those were usually requested by a local agency.  
19 That's on proposed legislation. The stuff that Paula and I  
20 were talking about is, after it's done, how do we implement  
21 this? What is the practical way of doing it?

22 Again, we're not again trying to get reimbursed for  
23 participation in the legislative process; we're trying to get  
24 involvement for the implementation of statutes that are in  
25 place.

26 MS. GOMES: What if we were to have the definition  
27 of the Commission workshop be more specific and more directed  
28 toward actual activities that do take place, as far as who

1 calls the meetings and all of that, what he just addressed?

2 MR. BURDICK: If you talk about Commission sponsored  
3 or convened, or however you want to use the language, that's  
4 generally what we're talking about, in those particular  
5 cases, since this Commission really has not taken any  
6 position on legislation to date. They normally kind of shy  
7 away from calling or holding meetings on legislation. So  
8 it's only after the fact, when it's a statutory provision,  
9 now, how do we implement it?

10 MS. STEINMEIER: I have a question.

11 CHAIRPERSON PORINI: Yes, Ms. Steinmeier.

12 MS. STEINMEIER: The question is for Ms. Higashi.  
13 Does this -- the way this is currently phrased, does this put  
14 us in an awkward position or is there a way to phrase it so  
15 we can be very specific about kinds of workshops?

16 MS. HIGASHI: It basically depends on how you want  
17 to approach this. If you want to approach this from the  
18 perspective that Dr. Berg raised, about the fact that there's  
19 training already allowed, but it's tied to the reimbursement  
20 claims. One way of approaching it would be to change the  
21 name of the section, call it training, at parallel language,  
22 and include in that training --

23 MS. GOMES: Great.

24 MS. HIGASHI: -- you know, specify training is only  
25 workshops convened by the Commission --

26 MS. BERG: We can do that.

27 MS. <sup>Steinmeier</sup>~~HIGASHI~~: -- and making it specifically tied to,  
28 you know, convened before, after, during, whatever Commission



1 wouldn't be quite appropriate, but, if we took the training  
2 section and said, "Include the costs of classes, including  
3 Commission workshops and seminars, designed to assist the  
4 claimant in identifying and correctly preparing," and  
5 something like that, that would put everyone on notice that  
6 it's mainly a training type of mission that is being sought  
7 here.

8 MS. HIGASHI: Is there -- the claimants are not  
9 being disadvantaged by this adoption, are they not? I was  
10 going to suggest that maybe what we need to do is bring it  
11 back next month.

12 MR. CUNNINGHAM: Yeah, that's fine.

13 MS. BERG: That will be fine.

14 MS. HIGASHI: You know, not sit here and take time  
15 in trying to rewrite this.

16 MR. CUNNINGHAM: Yeah. With respect to the  
17 regulation provisions that Paula was talking about, going  
18 back again to what Dr. Berg pointed out at the beginning of  
19 this, the scope of this mandate, and, that is: Would we be  
20 participating? Would anybody have any time involved in the  
21 regulatory process but for this statute? And I think the  
22 answer is no.

23 And, therefore, I think it does flow as a  
24 reimbursable activity from this statute. If the Commission  
25 is proposing a regulation on tie votes or if the  
26 regulation -- or Sunset Review regulations, certainly we  
27 wouldn't be participating in those actions but for the  
28 existence of this process.

1 CHAIRPERSON PORINI: You may be pushing just a  
2 little too far.

3 We're going to have staff -- we've directed staff  
4 to work on the language, bring it back to us, and it'll be  
5 before us for a vote next month.

6 MS. BERG: Great. Thank you very much.

7 MR. CUNNINGHAM: Thank you.

8 MS. HIGASHI: Item 9, recently the Legislature  
9 enacted a new law which requires a state agency to offer an  
10 orientation course on development, ethics, statutes and  
11 regulations that govern the conduct of state officials.

12 The orientation course must consist of viewing the  
13 training video or Internet documents developed and approved  
14 by the Attorney General and the Fair Political Practices  
15 Commission an Incompatible Activity Statement and a list of  
16 statutory conflicts of interest imposed upon state officials,  
17 if applicable.

18 This requirement must be completed by the end of  
19 this year, and it only applies to Commission members, the  
20 Executive Director, and the Chief Legal Counsel. Staff has  
21 started to develop these procedures for the members and for  
22 staff and recognize that, in order to do so, we need to have  
23 an Incompatible Activity Statement, which the Commission has  
24 adopted, and that statement would govern the incompatible  
25 activities potentially of the Executive Director and Chief  
26 Legal Counsel, since you are of appointing authority. So  
27 what we have given to you here is the proposed Incompatible  
28 Activity Statement that has been modeled after the one

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PUBLIC HEARING  
COMMISSION ON STATE MANDATES

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TIME: 9:30 a.m.

DATE: September 30, 1999

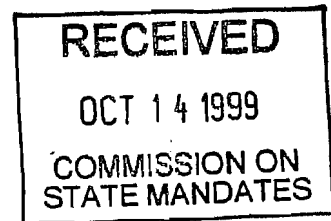
PLACE: State Capitol, Room 437  
Sacramento, California

ORIGINAL

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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Reported By: YVONNE K. FENNER, CSR License #10909, RPR

A P P E A R A N C E S

MEMBERS

AL BELTRAMI

MILLICENT GOMES

ANNETTE PORINI, Chairperson

BARRETT MCINERNEY

WILLIAM SHERWOOD

JOANN STEINMEIER

STAFF

PAT HART JORGENSEN

PAULA HIGASHI, Executive Director

NANCY PATTON

DAVID SCRIBNER

CAMILLE SHELTON

--oOo--

PUBLIC PRESENTATIONS:

JAMES M. APPS, Principal Program Budget Analyst  
State of California, Department of Finance

WILLIAM ASHBY  
State Controller's Office

CAROL A. BERG, Ph.D., Executive Vice President  
School Services of California, Inc.  
and Education Mandated Cost Network

JAMES A. CUNNINGHAM, Legislative Mandate Specialist  
San Diego City Schools

SONIA HEHIR, Staff Counsel  
State Controller's Office

1 KATHRYN G. RADTKEY-GAITHER, Program Budget Manager  
2 State of California, Department of Finance  
3 DANIEL G. STONE, Deputy Attorney General  
4 State of California, Department of Justice  
5 Office of the Attorney General  
6 FRANK TERSTEGGE, SELPA Director  
7 Butte County Office of Education  
8 JEFF YEE  
9 State Controller's Office  
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1 much. This item, I think, has been concluded.

2 MR. STONE: Thank you.

3 CHAIRPERSON PORINI: All right. Item No. 8 has  
4 been held over. Items No. 9, 10, and 11 are on consent.

5 MS. HIGASHI: And Item 12 is adoption of  
6 proposed regulatory action on tie votes. This will be  
7 presented by Commission legal counsel, Ms. Hart  
8 Jorgensen.

9 MS. HART JORGENSEN: Commissioners and people in  
10 the audience, thank you for coming on this important  
11 issue.

12 The Commission's current regulations require  
13 that all Commission actions be supported by majority  
14 vote of the existing membership. However, the  
15 Commission's regulations do not include any procedures  
16 for resolution of a test claim that is deadlocked by a  
17 tie vote.

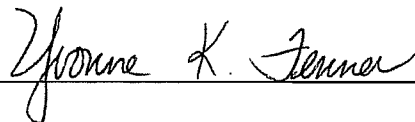
18 At its June 24th, 1999 hearing, the Commission  
19 initiated a new rulemaking package to amend sections  
20 1183 and 1187.2 of its regulations to establish  
21 procedures for the Commission to follow when there has  
22 been a tie vote. This rulemaking proposal provides the  
23 Commission with five options when there has been a tie  
24 vote.

25 Under these regulations, the Commission may  
26 rehear the claim either when the membership changes or  
27 after an abstaining member has had an opportunity to  
28 review the administrative record. Or the Commission can

REPORTER'S CERTIFICATE

I hereby certify the foregoing hearing was held at the time and place therein named; that the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting.

In witness whereof, I have hereunto set my hand this 14th day of October, 1999.



Yvonne K. Fenner  
Certified Shorthand Reporter  
License No. 10909



MINUTES  
COMMISSION ON STATE MANDATES  
Thursday, September 30, 1999  
State Capitol, Room 437  
Sacramento, California

9:30 A.M. - PUBLIC MEETING AND HEARING

Present: Chairperson Annette Porini  
Representative of the Director of the Department of Finance  
Vice Chair William Sherwood  
Representative of the State Treasurer  
Member Millicent Gomes  
Representative of the Director of the Office of Planning and Research  
Member Barrett McInerney  
Representative of the State Controller  
Member Albert Beltrami  
Public Member  
Member Joann Steinmeier  
Representative of School Boards

I. CALL TO ORDER AND ROLL CALL

Chairperson Porini called the meeting to order at 9:32 a.m.

II. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTION 11126.

Closed Executive Session was cancelled.

III. REPORT FROM CLOSED EXECUTIVE SESSION

None.

IV. PROPOSED CONSENT CALENDAR

With a motion by Member Steinmeier and a second by Member Beltrami, Items 9, 10, and 11 were unanimously adopted on consent.

V. APPROVAL OF MINUTES (action)

Item 1 August 26, 1999

Item 2 September 15, 1999

Member McInerney moved for adoption. Member Beltrami requested a modification to the August 26, 1999 minutes. As written, the minutes said that Member Beltrami "thought" the City should like the subject legislation. He clarified that he had actually said he thought the Personnel Board *made an interesting argument that the City should like this legislation* because it tightens up things and should therefore save money in the long run. With a second by Member Steinmeier, the minutes were adopted, as modified, unanimously. Member Sherwood abstained.

VI. HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

A. TEST CLAIMS

Item 3            *Behavioral Intervention Plans* - CSM-4464  
Butte County Office of Education, San Diego Unified School District,  
and San Joaquin County Office of Education, Co-Claimants  
Education Code Section 56523  
Statutes of 1990, Chapter 959  
Title 5, California Code of Regulations,  
Sections 3001 and 3052

David Scribner of Commission staff introduced this item. He noted that the test claim legislation and implementing regulations imposed a new program or higher level of service on school districts by requiring them to develop and implement behavioral intervention plans, which were not required under prior law. Federal law did not require the development and implementation of behavioral intervention plans when the test claim legislation was enacted. Further, behavioral intervention plans are not required under the Code of Federal Regulations. Case law from other jurisdictions illustrates that federal law recognizes that there are a variety of strategies that ensure disabled children receive a free appropriate public education, whereas state law requires development and implementation of behavioral intervention plans whenever a child exhibits a serious behavior problem. Mr. Scribner added that Government Code section 17556, subdivision (e), does not preclude the finding of a mandate because the test claim legislation did not specifically provide funding for the behavioral intervention plan program.

Parties were represented as follows: Jim Cunningham, co-claimant, with the San Diego Unified School District; Frank Terstegge, SELPA Director, with the Butte County Office of Education; Carol Berg with the Education Mandated Cost Network; Dan Stone, Deputy Attorney General, and Kathy Gaither, for the Department of Finance. The parties were sworn in.

Jim Cunningham noted that, though he mildly disagrees with staff's analysis, he recommended the Commission approve staff's recommendation. He disagreed with Department of Finance and argued that the funding was not specifically intended to cover the costs of this mandate—in fact, Statutes of 1990, Chapter 959, does not include an appropriation. Mr. Cunningham distributed copies of the 1991 Budget Bill, the first budget passed following the adoption of the test claim legislation. He alleged that the Legislature identified specific subappropriations in that bill, but behavioral intervention plans was not one of them.

Mr. Stone contended that it was inappropriate to discuss the offset issue because it is an issue in the Riverside claim which has been continued for discussion in late October. He requested the Commission delay consideration until it has determined the issue in its more broadly briefed and argued context in the Riverside manner. Mr. Stone argued that the state's requirements are intended to fill in the gaps and provide a manner to satisfy the federal requirements. He noted that subsequent amendments to federal law expressly include behavioral intervention plans as a means of satisfying the need to deal with children with serious behavioral problems. Since behavioral interventions is an acceptable way to satisfy the federal requirements, it is not a state mandate.

Ms. Gaither submitted that the state law is implementing the federal requirement to provide each child with their civil right to a free appropriate education—if an IEP team finds after consideration that a child needs behavioral intervention, it is required by federal law.

Member McInerney asked if the state allowed the locals to make the decisions about which specific tools to use if that would have kept the state out of it entirely. Mr. Stone responded that it would have, though the state is not allowed to do so because the federal mandate goes to both the state and locals. Member McInerney asked why the state could not have passed the federal mandate onto locals without specifying the specific tool to use. Mr. Stone replied that that might have exposed the state to litigation.

Ms. Gaither added that special education is different from other educational programs because of the specific federal requirement to protect children's civil rights. She submitted that the Legislature attempted to walk the fine line between protecting the policy interests of the state, which includes providing an adequate education to every child, while allowing some measure of local flexibility and control. Ms. Gaither explained that federal law requires the state to submit an annual plan that includes how the state will ensure that children receive services to which they are entitled.

In response to Member McInerney, Ms. Gaither said that the state would be violating the federal requirements if it submitted a plan to the federal government allowing for local discretion as to which tools are used. She submitted that, when former Governor Deukmejian was considering not extending the sunset date of law relating to special education, the federal government threatened to withdraw all federal support.

Member McInerney noted that having no law, and submitting a plan giving locals discretion, are two different situations. He asked, when the state limits the option of districts by requiring behavioral intervention plans, why that would not be a mandate. Ms. Gaither responded that behavioral intervention includes a variety of strategies. Member McInerney noted that, where the circumstances are met, a behavioral intervention plan is required by the state and it must be done in a manner consistent with the directions and context that the state set forth. Ms. Gaither responded that some flexibility exists in how the policy is adopted at the local level, but there are required elements to the plan which are designed to ensure that the children are protected. Member McInerney commented that, if there are required elements, it seems a mandate would exist and that the Commission should move to the parameters and guidelines phase to determine what those elements are.

Mr. Stone agreed that the state has taken away some discretion from the locals, but the reason for the requirement was the federal mandate requiring some response in these situations; the Legislature's approach falls under the umbrella of federal requirements.

Member McInerney stated that the federal mandate contained an entire range of possibilities which were narrowed down by the state as to a particular, singular direction. He added that, when the state intervenes in that manner, it is not mandating a wide-ranging federal mandate, but a very specific state direction on the local agencies. Mr. Stone agreed, but again submitted that the state direction is within the federal mandate.

Member McInerney asked if Mr. Stone was contending that, if the state does anything "philosophically consistent" with a federal mandate, then any specific direction given by the state would be subsumed into the federal mandate. Mr. Stone replied that, in this case, the state had court decisions, regulations, and amendments to statutes that plainly say that what the state did is an appropriate response to the federal mandate.

Mr. Cunningham noted that, up until the 1997 IDEA amendments, federal law and regulations did not require any kind of behavioral intervention strategy or plan. Even then, Congress only

said you shall consider, if appropriate, strategies to address the behavior, which may include behavioral intervention plans. He added that a strategy, under federal law, is not the same as a plan, with all of the extras included in that plan under section 3052. Mr. Cunningham noted that, only after the regulations went into place, did the state plan start to include provisions regarding behavioral interventions, and that was a reaction to the state requirement and not to federal law.

Member Steinmeier felt it was clear that not everything the state does is a federal mandate when it comes to special education. She agreed with the staff analysis that the differences between state and federal law in this case indicate that there is a state mandate.

Member Gomes thought that the plan fits into the *related services* definition in the Code of Federal Regulations. She asked staff why it narrowed its analysis to *psychological services* when the federal regulations discuss other *related services*.

Mr. Scribner replied that *psychological services* was modified at a later date to mention behavioral intervention plans. Further, federal law includes options where the state does not. Member Gomes noted that *psychological services* includes "other procedures," and asked if the plan would be an assessment for improving the child's behavior.

Mr. Scribner agreed that it is another assessment procedure, but noted again that it is one of the many options districts could implement under federal law, whereas state law does not allow for assessment procedures other than behavioral intervention plans.

Chairperson Porini shared Member Gomes concern, noting that she believed a behavioral intervention plan could easily be described as other supportive services. Mr. Scribner reiterated the fact that, while they may fall under other supportive services or corrective actions, federal law does not restrict districts to using behavioral intervention plans.

Member Sherwood agreed with Members Gomes and Porini that behavioral intervention plans fall within the general federal law. He believed the state does have the ability to set some standards, and asked if the state is really voluntarily restricting locals, or if it is doing something that it feels is necessary to protect the children in this environment.

Mr. Scribner believed the state was voluntarily doing this to protect the children. According to *Hayes*, the Commission is supposed to be looking at what the state has done in excess of the federal requirements. Mr. Scribner submitted that the state's requirements exceed the federal's by restricting the options of districts.

Mr. Cunningham did not think Congress was operating under the definition of *psychological services*. He added that other states have not imposed this requirement and their state plans have been approved.

Member Gomes agreed that this does not necessarily fit into *psychological services*, but had difficulty separating it from the other developmental and corrective services and other supportive services delineated under federal regulations. She added that some states, or school districts within, failed to include a behavioral management program, and the court decided they failed to provide a free appropriate public education and therefore violated the provisions of the IDEA.

Mr. Terstegge explained that behavioral analysis with a positive behavior approach is not a general broad methodology—it is a narrow, specific methodology in education. He believed it goes beyond the federal intent and that it is, in a sense, a very dangerous legislation because of

the narrow specificity that it imposes on students. Mr. Terstegge noted the significant increase in costs due to the Hughes bill that imposes this requirement.

Member Beltrami asked if federal law requires room and board if a handicapped child is residing with a grandparent while attending special education school. Ms. Gaither replied that federal law is not specific, but rather requires that children receive whatever necessary to have a free appropriate public education. She added that, while it may be more expensive to do things in a way that is safe for children, that does not constitute a state mandate. Ms. Gaither submitted that the state is responding to federal law and other requirements that require the state to keep its children safe.

Member Beltrami disagreed with Mr. Stone's argument that the federal umbrella covers all activities related to special education. He noted that the Commission had found exceptions where the state's requirements exceeded the federal requirements, but was undecided as to whether the state had exceeded federal requirements in this case.

Mr. Terstegge contended that the state could have accomplished the same thing and given locals the latitude they needed by simply prohibiting certain interventions that were dangerous. The Chair asked if districts put interventions in place in that case. Mr. Terstegge said that they do not, however, they are required to go through the process of the assessment and a series of meetings to determine that intervention is inappropriate. Ms. Gaither responded that the state considered prohibiting certain interventions, but that would have put it in violation of federal law.

Member Gomes submitted that behavioral intervention plans fall underneath federal law where it says districts can use, when appropriate, positive behavioral interventions.

Member Steinmeier asked staff if it had considered including in its staff analysis any of the language changes requested by Mr. Cunningham in his late filing. Mr. Scribner replied that the focus of that filing was to clarify that federal law does not speak of behavioral intervention plans, but behavioral intervention strategies, which are entirely different. He said that staff does support those modifications.

Member Gomes moved to find that a state mandate does not exist. Chairperson Porini seconded the motion, which ended in a tie vote. (Members Gomes, Sherwood, and Porini voted "Aye," and Members McInerney, Steinmeier, and Beltrami voted "No.") No action was taken.

## B. INCORRECT REDUCTION CLAIM

- Item 4      Request for Disqualification of the Commission Member Representing the State Controller pursuant to California Code of Regulations, Title 2, Section 1187.3, Subdivision (b), on Item 5, Open Meetings Act - CSM-96-4257-I-b, CSM-98-4257-I-54. Request of the San Diego Unified School District, Claimant, dated August 27, 1999.

Ms. Higashi introduced this item, explaining that the San Diego Unified School District filed its original request to disqualify the State Controller's Office (SCO) representative from hearing any matter relating to the incorrect reduction claim (IRC) filed by the district on the *Open Meetings Act*. Staff recommended permitting the district to present its request, followed by a response from the SCO. The other members could then choose to act upon the district's request.

Jim Cunningham, the requester, submitted the following:

- The SCO is a party to this action and due process requirements indicate that one cannot be a party and a decision-maker.
- Disqualification is proper under the principles embodied in the Code of Civil Procedure section 170.1, subdivision (a)(6)(C) and in the cases cited in his written materials regarding reasonable doubt that the designee would be impartial.
- There has been improper ex parte communications involving the SCO representative and the SCO staff.

Carol Berg, with the Education Mandated Cost Network, clarified that this request in no way reflects upon the SCO representative—it is a philosophical issue. Secondly, the SCO has historically resolved this issue in the same way, so Dr. Berg wanted to be on record requesting that parties do separate those activities when appropriate.

Member McInerney responded with the following:

- The SCO is not a party to the IRC—the witnesses to the claim come from a separate section of the office and there is no financial or other incentive the SCO has to make a decision either way.
- Regarding impartiality, Member McInerney makes decisions independently at the hearing. He does have discussions with the Controller, though he has not had a specific discussion with the Controller on this particular issue. He assured the claimants that they would receive a fair and impartial decision.

Hearing no motion, the Chair proceeded onto Item 5.

Item 5            *Open Meetings Act* - CSM-96-4257-I-b; CSM-98-4257-I-54  
San Diego Unified School District, Claimant  
Statutes of 1986, Chapter 641

Nancy Patton of the Commission staff introduced this item. She noted that existing law requires the Commission to hear and decide claims by local agencies and school districts that the State Controller's Office (SCO) incorrectly reduced their claims for reimbursement. The subject claim involves claims regarding the Open Meetings Act. The SCO developed claim settlement instructions in consultation with local agency and school district representatives to clarify how reimbursement claims should be filed. The claimant submitted its claims accordingly. The SCO agrees with the claimant that appropriate documentation showing actual costs was submitted. However, the SCO subsequently developed a general time guideline of 30 to 45 minutes per page and applied this guideline to the claimant's claims. Costs exceeding this time guideline were disallowed. On July 26, 1996, the SCO reduced the claimant's claims due to excessive costs. The following three issues are in dispute:

- Did the SCO perform a proper audit? Staff found no evidence that an improper audit was performed.
- Is the SCO's development and use of a general time guideline in violation of the Administrative Procedures Act? Staff found that the Commission does not have jurisdiction to decide this issue, rather, this authority rests with the Office of Administrative Law (OAL).
- Did the SCO's use of the guideline result in an incorrect reduction of the claimant's claims? Based on a review of SCO methodology, staff found that the SCO incorrectly disregarded the documentation submitted by the claimant, thereby disallowing costs eligible for

reimbursement. Staff also found that the guideline was not reasonable or representative of the claimant.

Staff therefore recommended the Commission find that the SCO incorrectly reduced the claimant's claims.

Parties were represented as follows: Jim Cunningham for the San Diego Unified School District; Carol Berg for the Education Mandated Cost Network; and, Jeff Yee, William Ashby, and Sonia Hehir, all for the State Controller's Office. Ms. Higashi swore in the witnesses not previously sworn.

Regarding the first issue, Mr. Cunningham contended that there is nothing on the record showing that the SCO did do a proper audit, and that the record shows the SCO merely counted agenda pages and applied the guideline to adjust the claims. He alleged that the SCO had to adjust not only his claims, but all claims. Handing out copies of the SCO's "Explanation for Audits Exceptions Worksheets," Mr. Cunningham argued that the SCO file notes eliminate any doubt as to whether an improper audit was performed: "It would not be feasible to spend the time adding every sheet. [Therefore, the SCO said it was] okay to automatically use 35 minutes per page."

Regarding the second issue, Mr. Cunningham agreed with staff that the OAL has the jurisdiction to decide whether there is underground or illegal rulemaking. However, he believed the Commission could decide that there is undisputed evidence the SCO used underground rulemaking based upon the SCO's free admission that it adopted and intended to enforce its time guideline as a standard of general application.

Regarding the third issue, Mr. Cunningham agreed with staff that the SCO's adjustments were arbitrary and unreasonable. He submitted that the SCO never showed any reason why their standard has any relation to the mandated costs—they have applied a standard that is not supported by the data. Mr. Cunningham added that not all districts are similar. In a large school district, there are more people involved in the agenda description procedure. He requested the Commission approve staff's recommendation.

Dr. Berg noted that, if a unit cost is to be applied, that is within the purview of the Commission, and not by the SCO after the fact.

Ms. Hehir, Staff Counsel, explained that the SCO is charged with the statutory duty to rigorously review each claim and reduce those deemed excessive or unreasonable. She submitted that the SCO has attempted to carry out this judgmental responsibility under the law and in light of the facts presented. She distributed a histogram showing costs claimed under this mandate for use during the presentation of William Ashby.

Mr. Ashby, Division Chief of Accounting and Reporting, clarified that this was not a statistical sample. He explained that the SCO's initial analysis included all entities, not just school districts.

Mr. Ashby submitted that the minutes per page analysis was done only for districts because the SCO found they had a significant amount of variability in dollar amounts claimed, dollar amounts of staff pay, and number of staff. One entity claimed \$5 per page and another \$1400. The SCO used the mode, which was \$20 per page. Based on their analysis, this approximated to 35 to 50 minutes per page. He claimed that the SCO did compensate entities for a range—the analyst could reimburse \$35 to \$45 per page. He noted other cases of extreme variability in claims.

Mr. Ashby contended that the SCO defined what they thought was reasonable, or not excessive, and applied a rigorous standard.

Jim Apps maintained that the SCO's application of a standard of reasonableness is appropriate. He contended that the basic requirement is fairly specific in state law and that is all the SCO is prepared to reimburse. The DOF supported the SCO in that endeavor.

Member Steinmeier clarified that the SCO did not consider the size of the entity in its analysis, rather, it considered only the number of pages. Mr. Ashby agreed. Member Steinmeier explained that, realistically, organizations that are more complex sometimes take longer to reach a consensus. Mr. Ashby argued that discussion time is not a reimbursable mandated cost, only time to prepare and post the agenda. Member Steinmeier responded that it depends on how many people must review it. She thought size of the entity should be taken into consideration, because complex entities may have more than one person review an item. Mr. Ashby countered that that was up to the school.

Member Steinmeier added that the Open Meetings Act law created complicated matters by restricting item descriptions to 20 words. She stated that the question now was whether the SCO's analysis was adequate to explain the variability between entities. Member Steinmeier did not think it was. Mr. Ashby disagreed.

Member Beltrami agreed with Member Steinmeier that variability should be considered. However, he also agreed with the SCO that there must be some way to enforce reasonableness.

Member McNerney asked if there was a decision in the SCO between September 20, 1995, the date the revised claim settlement instructions were issued, and July of 1996, the date the reduction was announced, to change the method in which claims would be reviewed without going back to the parties involved in the original claim settlement instructions for input. Ms. Hehir replied that the change was not made with the approval of those organizations.

Member McNerney asked if, prior to notice of reduction to the claimant, if the claimant was advised that the SCO was using a unit cost analysis for the final reduction as opposed to the revised claiming instructions. Ms. Hehir responded that the letter identifying the reasons for reduction did not fully articulate that it was done on a 30 to 35 minute basis. Member McNerney clarified that, when the reduction was communicated in July of 1996, it was a fait accompli. Ms. Hehir agreed.

Mr. Cunningham assured Member McNerney that his records showed no communication from the SCO. In fact, when he received the reduction and requested more details on the reasons, he was stonewalled and had to make a public records request to review the files and find these standards.

Member Beltrami asked if Mr. Cunningham thought it was an appropriate charge to the State and people of California if 80 people were involved in putting an agenda together. Mr. Cunningham replied that his is a large organization with procedures to follow and several layers of management.

Member Beltrami asked what Mr. Cunningham thought the Legislature meant when it decided that the Act should be interpreted strictly and that its intent was to provide reimbursement when an organization clearly and unequivocally incurs a direct and necessary result. Mr. Cunningham responded that the California Newspaper Publishers Association, among others, was concerned that, if this mandate were found to have a large cost, the Legislature may no longer require these agenda descriptions that enable them to know what is going on within an organization.

Member Beltrami asked the SCO about offsetting for boilerplate language that was less complicated than legal descriptions. Mr. Ashby maintained that the agendas were so complex and variable, that the SCO did not attempt to consider boilerplate, margins, font size, etc. In some



cases, the SCO may have overcompensated. Mr. Cunningham added that he has evidence in the audit notes that the SCO did deduct pages.

Member Steinmeier asked if the Commission failed to indicate in its Parameters and Guidelines how reimbursement should occur, and whether the Commission considered unit cost. Ms. Shelton replied that, though unit cost was never proposed, any party could come back and request an amendment to the Parameters and Guidelines to include it. In response to Member Porini, Ms. Shelton said that there is no time line on amending parameters and guidelines.

Member McInerney believes that unit cost is the best approach for both the claimant and the SCO. He added that, while the SCO probably had good faith in using unit cost, he was concerned that shifting the way the SCO analyzes claims without notification creates a moving target for claimants.

Mr. Ashby responded that the time period for appropriation was about to expire, so a decision had to be made quickly as to how to compensate the claimants; there was no time to seek an amendment to the Parameters and Guidelines. Further, the SCO currently applies some time study or analysis of costs in their procedural review of claims to determine variability so they do not compensate claimants for excessive costs.

Mr. Cunningham again argued that the data did not support the SCO's 30-minute standard. Member Sherwood replied that the data can be viewed differently, as it was by the SCO. Like Member McInerney, he was more concerned with the lack of notification.

Member Steinmeier moved for adoption of the staff analysis. Member Sherwood seconded the motion. The motion carried 5-1, with Member Beltrami voting "No."

In conclusion, Member Sherwood indicated his concern with the lack of give-and-take from both parties and the lack of notice. Member Beltrami indicated his desire for parties to somehow synthesize or generalize their documentation to avoid repetition.

[A brief recess was taken.]

### C. ADOPTION OF PROPOSED STATEMENT OF DECISION

Item 6      *Peace Officers Procedural Bill of Rights* – CSM-4499  
City of Sacramento, Claimant  
Statutes of 1976, Chapter 465  
Statutes of 1978, Chapters 775, 1173, 1174, and 1178  
Statutes of 1979, Chapter 405  
Statutes of 1980, Chapter 1367  
Statutes of 1982, Chapter 944  
Statutes of 1983, Chapter 964  
Statutes of 1989, Chapter 1165  
Statutes of 1990, Chapter 675

This item was continued at the request of the claimant.

REQUEST FOR RECONSIDERATION OF PRIOR FINAL DECISION PURSUANT TO  
CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1188.4.

- Item 7      Long Beach Unified School District's June 24, 1996, Request to Hear and  
Decide Education Code Section 56026 - *Maximum Age Limit: Special  
Education for Ages 3 to 5, and 18 to 21*  
Statutes of 1977, Chapter 1247  
Statutes of 1980, Chapter 797, et al.  
As Part of the Special Education Test Claim Filed by  
Riverside County Superintendent of Schools and  
Supplemental Claimants (Request to Reconsider the Statement of Decision  
dated November 30, 1998)

Ms. Higashi, Executive Director to the Commission, noted that, related to this item, the Commission received a request from Long Beach Unified School District to disqualify the Department of Finance (DOF) and all of its representatives in *Special Education* cases now pending before the Commission. Staff recommended permitting the district to present its request, followed by a response from the DOF representative. Other members could then choose whether to act on the request.

Vice Chairperson Sherwood assumed the role of Chair.

Joseph Mullender submitted his request for disqualification on the written papers.

Member Porini stated that this is a new administration, she is new to this position, to the DOF, and to this issue. She asked former representatives why they had disqualified themselves in past *Special Education* hearings and determined that they were all personal and individual decisions, not the decision of the DOF to disqualify its representative. Ms. Porini submitted that a 'fire wall' exists in her office—she does not participate in meetings or discussions relating to Commission issues. Finally, she believed she could be unbiased on this issue.

Member Beltrami noted that former Chairperson Dezember was advised by his attorneys to recuse. Member Porini clarified that the former Chair indicated that he disqualified himself for a personal reason. Hearing no motion, Chairperson Sherwood moved on. Member Porini resumed the role as Chair.

Camille Shelton of the Commission staff introduced Long Beach Unified School District's request for reconsideration. She explained that the Commission's regulations on reconsideration provide for a two-step process with two hearings. Today, the Commission would determine if it wished to grant the request. This requires a supermajority of five affirmative votes. If granted, a second hearing would be scheduled to determine if the Commission's prior final decision of November 30, 1998, is contrary to law, and, if so, to correct the error. That decision denied the claimant's request to include special education services for disabled children ages 3 to 5 and 18 to 21 as part of the consolidated claim filed by Riverside County Superintendent of Schools and the supplemental claimants.

Ms. Shelton briefly outlined the history of this issue and noted the two options for action: Option 1 grants the request for reconsideration and the item would be rescheduled for a second hearing to determine if there has been an error of law; Option 2 denies the request. If the Commission selects Option 2, the administrative law judge will begin considering the merits of the underlying test claim. Staff recommended approval of Option 1.

Parties were represented as follows: Joseph Mullender for the Long Beach Unified School District; and Dan Stone, Deputy Attorney General, and Katherine Gaither, both for the Department of Finance.

Mr. Stone disagreed with staff's analysis. He submitted the following:

- The consolidation was for the limited purpose of considering whether the state special education program exceeded the federal mandate.
- Santa Barbara's designated representatives, the Education Mandated Cost Network (EMCN) and the School Services of California, knew the consolidation was limited and that Santa Barbara had dropped out—it was a common understanding.
- This was part of the reason the Commission opened the Riverside claim to supplemental claimants, in case anyone else wanted to go beyond the 17 areas.
- There is no history of the Santa Barbara claim using the term "maximum age," as used by Long Beach in its request for reconsideration.
- One supplemental claimant, the North Region SELPA, filed a claim for 3 to 5 year olds. Mr. Stone contended that they filed this claim because they knew the Santa Barbara claim had been abandoned.
- Had Long Beach truly thought the Santa Barbara claim was included, it would have filed a supplemental claim to extend the claiming period back to 1980, because the Riverside claim was restricted to current law in 1993/94.
- The only shortcoming is the technical problem of indicating for the record that the Santa Barbara claim had been abandoned and would no longer be entertained—the DOF was willing to make a motion to dismiss the claim orally or in writing if necessary.

In response to Mr. Stone's allegations, Carol Berg with EMCN argued that the Riverside claim always intended to encompass the Santa Barbara claim. She added that the Riverside documentation does go back to 1980, though they later decided to present documentation from 1993. Finally, Dr. Berg submitted that, though Santa Barbara's name has not been raised until Long Beach submitted it, none of the parties had believed or agreed that claim had been abandoned.

Member Steinmeier wanted to confirm that the Commission was working under the assumption that Santa Barbara had essentially abandoned its claim and Riverside had taken over its place. She explained that that is what she had been told when she first became a member.

Ms. Shelton did not know what the intentions or discussions were back then, but noted that the staff analysis was written purely on the administrative record. The record does not indicate that Riverside was taking over Santa Barbara's claim. Ms. Shelton added that, though Santa Barbara has not participated since 1992 or 1993, the Commission has never dismissed the claim and Santa Barbara has never formally withdrawn it.

Member Beltrami questioned the March 6, 1995, letter from the Commission's executive director providing notice that the Santa Barbara claim had been dropped. Ms. Shelton replied that the letter does not mention the Santa Barbara claim at all, rather, the caption notes the test claim is of the Riverside County Superintendent of Schools. Further, the letter allows other claimants to file supplemental claims to Riverside's claim.

Member Beltrami asked about a party's rights. Ms. Shelton explained that the law says, until an administrative agency formally dismisses a case, it is still pending. The Commission's regulations currently only provide for a withdrawal by the claimant. She believed the Commission could dismiss the claim under common law, though a separate procedural hearing would still be necessary. The Commission would need to notify interested parties and other school districts and give them the opportunity to be heard.

Mr. Mullender argued that these cases can be dismissed for lack of prosecution, but the difference in procedure here as opposed to a normal court case is that it affects the rights of other similarly situation entities, just like a class action.

Member Beltrami asked why those other entities did not say or do anything after Santa Barbara disappeared from the scene. Dr. Berg argued that Riverside did come forward to take over the Santa Barbara claim and that the fact that Santa Barbara did not formally withdraw its claim, as required, means that the claim was not abandoned.

The Chair asked if the Commission has had any contact with Santa Barbara. Ms. Shelton noted that staff sent them a copy of staff's final analysis to put them on notice that there was an allegation being made that their claim was still pending. Staff has not received a response.

Member Beltrami asked if Santa Barbara was one of EMCN's clients. Dr. Berg responded that the county offices of 58 counties support the EMCN, so "yes" in that sense. However, she does not represent them.

Member Gomes moved for adoption of Option 2, to deny the request for reconsideration and allow the court in pending litigation to rule on the issue. Ms. Shelton clarified that, currently, there is no pending litigation so Option 2 would be limited to the denial. Member Gomes added that the motion included the Commission scheduling a second hearing to dismiss the Santa Barbara claim. Member Beltrami seconded the motion. Members Gomes, Porini, and Beltrami voted "Yes." Members McInerney, Sherwood, and Steinmeier voted "No." Member Sherwood clarified that they needed five votes to move ahead with the recommendation, so the Commission is actually voting on Option 1.

Member Steinmeier moved for adoption of Option 1, to grant the request for reconsideration and allow Long Beach to present its argument at a subsequent hearing.

In response to Member McInerney, Ms. Shelton said that there is nothing in the Commission's regulations allowing a claim to expire on its own. Member McInerney suggested the Commission continue the item, have a motion for dismissal filed, and then make a ruling between the reconsideration and motion to dismiss. Otherwise, the Commission would be acknowledging something that could not have happened procedurally.

Mr. Stone inquired whether the Commission, acting as a quasi-judicial tribunal, could dismiss the claim on its own, or if the motion must come from a party. Ms. Jorgensen replied that current regulations do not include procedures for the Commission to withdraw a claim or to say that the time has lapsed. Ms. Shelton reiterated her belief that, under common law, the Commission has the authority to dismiss. Member McInerney clarified that, since the claim affects school districts throughout the state, notices must be sent out and they must be given the opportunity to respond.

Member Steinmeier explained that that was the reason for her motion—to have an actual hearing on the issue and provide some finality. She wasn't actually supporting reconsideration, and noted that most likely the Commission would find the claim was deceased because it was not acted upon. Member Steinmeier believed the Commission should follow a formal procedural process.

Mr. Stone again offered to make a motion for dismissal, if necessary.

Member Beltrami seconded Member Steinmeier's motion for Option 1.

Mr. Mullender asked if the motion included giving notice. Ms. Shelton explained that Option 1 only grants the request for reconsideration. A second hearing would be held to discuss the merits of the Long Beach claim and then the Commission would decide whether there has been an error of law. If so, the Commission would change its prior statement of decision. The Chair clarified that this option does not address Santa Barbara's claim.

On a roll call vote, Members Beltrami, McInerney, Sherwood, and Steinmeier voted "Yes," and Members Gomes and Porini voted "No." Ms. Higashi explained that, since five votes are required to grant the request, the motion failed.

For procedural closure, Member McInerney moved to continue the request to a hearing when it could be joined with a motion to dismiss so there could be finality with respect to the Santa Barbara claim one way or another. Member Steinmeier seconded the motion. Member Beltrami clarified that that would ensure notice to all of the parties. Member Gomes asked if that meant the Commission would reconsider Long Beach's request for reconsideration. Member McInerney explained that the motion for reconsideration would be continued. Ms. Jorgensen explained that the request for reconsideration had already been denied because there were not five affirmative votes.

Member Sherwood thought the remaining question was whether the Commission wanted to go to the next step and hold a separate hearing to discuss the Santa Barbara claim, which would take a notice of hearing. Ms. Jorgensen agreed, adding that that would take two months. Member Sherwood clarified that the issue could be left in limbo until Santa Barbara comes forward. Ms. Jorgensen noted that if the Commission did move to dismiss, Santa Barbara could come forward and state the reasons why it should continue.

Member Beltrami requested the notice be to "dismiss" rather than to "discuss" the claim. The Chair agreed and directed staff to include the notice to dismiss in its next notice. Member McInerney clarified that, if the motion to dismiss ends in a tie vote, the Santa Barbara claim would be resuscitated. This would put the Commission exactly where it would have been if it approved the motion for reconsideration today.

## VII. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

### A. ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

- Item 8      *Criminal Background Checks, ( a.k.a. Michelle Montoya School Safety Act)*  
CSM-97-TC-16  
Lake Tahoe Unified School District and Irvine Unified School District,  
Co-Claimants  
Education Code Sections 44237, 45125, 45125.1, 44332.6, 44830.1, and  
45122.1  
Statutes of 1997, Chapters 588 and 589

This item was continued the request of the Commission staff and the Department of Finance staff. Ms. Higashi noted that a prehearing conference was held and staff hopes to set the item for the next hearing.

- Item 9      *Pupil Residency Verification and Appeals* – CSM-96-348-01  
Sweetwater Union High School District and  
South Bay Union School District, Co-Claimants  
Education Code Sections 14502, 48204.5, and 48204.6  
Revenue and Taxation Code Section 97.3  
Specified Executive Orders, Standards, and Procedures  
Statutes of 1984, Chapter 268  
Statutes of 1995, Chapter 309

This item was adopted on consent.

#### B. REQUESTS TO AMEND PARAMETERS AND GUIDELINES

- Item 10      *Mandate Reimbursement Process – Amendment*  
CSM-4485-PGA-98-01  
Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)

This item was adopted on consent.

- Item 11      *Juvenile Court Notices II* – CSM-98-4475-PGA-1  
Sweetwater Union High School District, Claimant  
Statutes of 1995, Chapter 71

This item was adopted on consent.

#### C. ADOPTION OF PROPOSED REGULATORY ACTION

- Item 12      Proposed Amendments to California Code of Regulations, Title 2  
Chapter 2.5, Section 1182, and Section 1187.2 Quorum and Voting  
Requirements (Tie Vote).

Patricia Hart Jorgensen introduced this item. She noted that the Commission's current regulations require all Commission actions to be supported by a majority vote of the existing membership, but do not include procedures for resolution of a tie vote. At its June 24, 1999, hearing, the Commission initiated a new rulemaking package to amend sections 1183 and 1187.2 to establish procedures for tie votes. This proposal provides the Commission with the following options:

- Rehear the claim when membership changes or after an abstaining member has the opportunity to review the administrative record;
- Assign the claim to a hearing panel or hearing officer for hearing and preparation of a proposed decision for the Commission's consideration (in the case of a hearing panel, members shall be chosen by lot); or
- Direct staff to prepare a proposed decision based upon its final analysis and the evidentiary hearing for the Commission's consideration.

Ms. Jorgensen explained that the 45-day public comment period closed August 27. The Commission received comments from Long Beach and San Diego Unified School Districts. Both districts recommended an amendment to the Commission's regulations providing that a tie vote

results in denial of the claim or reaches a finding that the claimant has exhausted its administrative remedies. Ms. Jorgensen submitted that to adopt this proposal would deprive the reviewing court of the tools necessary to perform its review—it would ultimately force the reviewing court to remand the matter back to the Commission for a final decision supported by adequate findings. She said this has already happened, as evidenced in the unpublished decision in the Sacramento Superior Court in the matter of *Santa Barbara County Superintendent of Schools v. State Board of Control*. Ms. Jorgensen agreed with the commentators that these regulations will not cure a tie vote, but added that they do establish procedures for the Commission to follow. Staff recommended adoption of this rulemaking package.

Joseph Mullender, with the Long Beach Unified School District, noted his preference for adoption of a regulation deeming a tie vote a denial. He cited *REA Enterprises* (52 Cal.App. 3d 596), a Coastal Commission case, in which the court upheld the Commission's denial of a permit based on a tie vote. Ms. Jorgensen noted that Public Resources Code section 27400 requires that, for a permit to go forward, there must be an approval. Further, she distinguished that the Coastal Commission acts similar to a court of appellate review, not as a de novo court.

Mr. Mullender submitted that, if the Commission has a denial by tie vote, it should make the finding in support of the denial just as it does with a majority denial.

Ms. Shelton explained that the Commission cannot have findings in a tie vote situation because there isn't agreement among the Commission members as to what those findings are. This is especially important in cases with factual issues.

Jim Cunningham, with the San Diego Unified School District, submitted that a tie vote is not necessarily a decision on the merits, but it has a functional equivalent of a denial. He supported the Long Beach position. Mr. Cunningham did not believe any of staff's alternatives would work, and instead suggested that the Commission find that its decision is that it cannot make a decision and allow the claimant to go to court, or deem the claimant to have exhausted its administrative remedies. Then, the Commission could adopt parameters and guidelines in accordance with the findings of the court.

Member Beltrami asked Mr. Cunningham if he felt it was a problem that there would be no record that goes to the court. Mr. Cunningham responded that, despite the fact that a record would not be necessary for a de novo review, an extensive record is available.

Member Gomes asked if Mr. Cunningham's concerns about findings reconcile with the *Topanga* case, regarding a final determination on the merits.

Ms. Jorgensen replied that, based on the statutory scheme established by the Legislature under which the Commission must operate, there must be a decision with findings. In response to the Chair, Ms. Jorgensen said that a tie vote denial without findings would leave the Commission right back where it started.

Mr. Cunningham agreed that it would not be reviewable under the standard in section 1094.5, but noted there are other forms of action without those limitations. Mr. Mullender added that the Commission could also have oral findings.

Member Steinmeier commented that the Commission's only tool is to use regulations to solve this problem. She supported staff's recommendation because, in a past claim, turning the matter over to an administrative law judge was successful. If this does not work, then the Legislature will have to resolve the problem.

Member McInerney stated that the Commission could not accomplish much with the proposed regulations. He submitted that the problem is political and legal. A judge is looking for findings—no matter how the Commission defines a tie vote, it will not be providing findings. Member McInerney suggested that the only real option would be to cast a straw vote and abstain on findings to create a denial, thereby allowing the claimant to go to court. However, this would give the other side the advantage of the substantial evidence test. Ms. Jorgensen responded that a straw vote with no findings would not work.

Member Beltrami asked about the Coastal Commission code. Ms. Jorgensen replied that there is a state law indicating that the permit needs a majority vote for approval. Further, the Commission has original jurisdiction, not de novo.

Member Beltrami agreed with Member McInerney that the proposal simply postpones the problem. He sympathized with the claimants' plight. Ms. Jorgensen agreed that the proposal does not force resolution, rather, it establishes procedures for the Commissioners to consider in the event of a tie vote. Member Beltrami preferred to modify the regulations to provide that everything goes to a hearing officer. He did not like the option of the staff report superceding the Commission.

Ms. Higashi clarified that (c)(3) directs staff to prepare a proposed statement of decision based upon the final staff analysis and evidentiary hearing, it does not imply that the proposal becomes the decision without a vote. Member Beltrami asked if that was almost a rehearing. Ms. Higashi replied that it could be viewed that way. Member Beltrami agreed with Member McInerney that the problem was political and may have to be answered through the Legislature.

Member Sherwood asked what would happen if claimants accepted a tie vote as a denial and allowed them to take their chances at the court level. Ms. Jorgensen estimated that there is a 99 percent chance that the court would send the issue back to the Commission to make a decision with findings. She cited the *Santa Barbara* case (which was not a tie vote issue) in which the reviewing court remanded the issue to the Commission to come up with more specific findings in support of its decision.

Mr. Cunningham rebutted that, in the *County of San Diego* case, the court did not send the matter back for findings. He submitted that the test claim issue was decided by the courts and sent back to the Commission to adopt the parameters and guidelines. Ms. Shelton explained that that case was not a test claim and applied only to one county. Further, it did come back to the Commission to determine whether or not any costs were mandated by the state. Ms. Shelton added that the SIDS test claim was remanded because the Commission did not have any findings on the fee authority.

Member Gomes moved to adopt staff's recommendation. With a second by Member Steinmeier, the motion passed unanimously.

## VIII. EXECUTIVE DIRECTOR'S REPORT

### Item 13      Legislation, Workload, and October Agendas

Ms. Higashi noted that the report was included in the binders. She noted that:

The Commission's claims bill and CSAC's legislation, the Local Government Omnibus Act of 1999, are on the governor's desk.



The Commission's pending regulations (regarding the Conflict of Interest Code and AB 1963 and Sunset Review packages) were filed with the Secretary of State for printing.

Three new test claims and four incorrect reduction claims have been filed with the Commission.

The SB 1933 hearing in Butte County will be held on October 19. Staff is working with Department of Finance to prepare a staff report on this application.

The regular Commission hearing on October 28 will include the preliminary decision on the Butte County application, as well as a continuation of the *Special Education* Parameters and Guidelines. The School Site Councils and Brown Act test claims are tentatively set for hearing, along with the item continued from this month.

Member Beltrami recognized that today was Member McInerney's last Commission hearing. The Chair added that he would be missed.

#### IX. PUBLIC COMMENT

None.

#### INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action) (tentative)

The proposed parameters and guidelines for *Special Education*, CSM-3986, were not heard.

#### ADJOURNMENT

Hearing no further business, Chairperson Porini adjourned the meeting at 12:31 p.m.



PAULA HIGASHI  
Executive Director

f:/meetings/minutes/1999/093099



BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE AMENDMENT TO PARAMETERS  
AND GUIDELINES ON:

Statutes of 1975, Chapter 486; Statutes of 1984, Chapter 1459; Statutes of 1995, Chapter 303 (Budget Act of 1995); Statutes of 1996, Chapter 162 (Budget Act of 1996); Statutes of 1997, Chapter 282 (Budget Act of 1997); Statutes of 1998, Chapter 324 (Budget Act of 1998); Statutes of 1999, Chapter 50 (Budget Act of 1999).

NO. CSM-4485-99

*Mandate Reimbursement Process*


ADOPTION OF AMENDMENT TO  
PARAMETERS AND GUIDELINES  
PURSUANT TO GOVERNMENT CODE  
SECTION 17557 AND TITLE 2,  
CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 1183.2 AND 1185.3.

(Adopted on September 30, 1999)

PARAMETERS AND GUIDELINES AMENDMENT

On September 30, 1999, the Commission on State Mandates adopted the attached Amended Parameters and Guidelines, This decision shall become effective on October 1, 1999.

Date: 10-1-1999

  
\_\_\_\_\_  
PAULA HIGASHI, Executive Director

Adopted: September 30, 1999  
File: CSM-4485-99 (6<sup>th</sup> Amendment)  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
f:\mandates\csm4000\4485\pga093099  
Document Date: September 15, 1999

## PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

Statutes of 1984, Chapter 1459

Statutes of 1995, Chapter 303 (Budget Act of 1995)

Statutes of 1996, Chapter 162 (Budget Act of 1996)

Statutes of 1997, Chapter 282 (Budget Act of 1997)

Statutes of 1998, Chapter 324 (Budget Act of 1998)

Statutes of 1999, Chapter 50 (Budget Act of 1999)

### *Mandate Reimbursement Process*

[For fiscal years 1995-96, 1996-97, 1997-98, 1998-99 and 1999-00 only, these parameters and guidelines are amended, pursuant to the requirements of (1) provision 11 of Item 0840-001-001 and provision 1 of Item 8885-001-001 of the Budget Act of 1995, (2) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1996, (3) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1997 (4) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1998 (5) **provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1999** to include Appendix A.]

### **I. Summary of Mandate**

Chapter 486, Statutes of 1975, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the State. In addition, Chapter 486/75 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Chapter 1459, Statutes of 1984, created the Commission on State Mandates, which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by Section 6 of Article XIII B of the California Constitution for State mandates under the Government Code, see section 17552.

Together these laws establish the process by which local agencies are to receive reimbursement for State-mandated programs. As such, they prescribe the procedures which must be followed before mandated costs are to be recognized. They also dictate reimbursement activities by requiring localities to file claims according to instructions issued by the Controller.

## **II. Commission on State Mandates Decision**

On March 27, 1986, the Commission on State Mandates determined that local agencies and school districts incurred "costs mandated by the State" as a result of Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984. Specifically, the commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. Eligible Claimants**

All local agencies and school districts incurring increased costs as a result of this mandate are eligible to claim reimbursement of those costs.

## **IV. Period of Claim**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed.

## **v. Reimbursable Costs**

### **A. Scope of Mandate**

Local agencies and school districts filing successful test claims and reimbursement claims incur State-mandated costs. The purpose of this test claim was to establish that local governments (counties, cities, school districts,

special districts, etc.) cannot be made financially whole unless all state mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of State-imposed mandates, all resulting costs are recoverable.

B. Reimbursable Activities -- Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits; materials and supplies, consultant and legal costs, transportation, and indirect costs.

C. Reimbursable Activities -- Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

## VI. Claim Preparation

A. Supporting Data

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

B. Salaries and Benefits

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate.

D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

E. Training

1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing State-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

F. Indirect Costs

1. Local Agencies

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Local agencies must claim indirect costs based on the following alternatives: Compensation for indirect costs is eligible for reimbursement using the procedure provided in the OMB Circular A-87. Claimants have the option of using ten (10) percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds ten (10) percent. If more than one

department claims-indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB Circular A-87 (or subsequent replacement). An ICRP must be submitted with the claim when the indirect cost rate exceeds ten (10) percent.

2. School Districts

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

4. Community College Districts

Community College Districts must use one of the following three alternatives:

- a. An ICRP based on OMB Circular A-2 1;
- b. The State Controller's FAM-29C which uses the CCFS-3 11; or
- c. Seven percent (7 %).

**VII. Offsetting Savings and Other Reimbursement**

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claims. In addition, reimbursement for this mandate received from any source, e.g. , federal, state, etc. , shall be identified and deducted from this claim.

**VIII. Required Certification**

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims 'for funds with the State of California.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TELEPHONE NUMBER

(Continue to Appendix A)



## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-96, 1996-97, 1997-98, 1998-99, and 1999-00 <sup>1</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if

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<sup>1</sup> The limitation added by (1) the Budget Act of 1995, Chapter 303, Statutes of 1995, in Item 0840-00 1-00 1, Provision 11, and in Item 8885-00 1-00 1, Provision 1, (2) the Budget Act of 1996, Chapter 162, Statutes of 1996, in Item 0840-00 1-000 1, Provision 9, and in Item 8885-00 1-000 1, Provision 1, (3) the Budget Act of 1997, Chapter 282, Statutes of 1997, in Item 0840-00 1-000 1, Provision 9, and in Item 8885-00 1-000 1, Provision 1, and (4) the Budget Act of 1998, Chapter 324, Statutes of 1998, in Item 0840-00 1-000 1, Provision 8, and Item 8885-00 1-000 1, Provision 1, (5) the Budget Act of 1999, Chapter 50, Statutes of 1999, in Item 0840-00 1-000 1, Provision 8, and in Item 8885-00 1-000 1, Provision 1, is shown as part A. of this Appendix.

performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

**DECLARATION OF SERVICE BY MAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 1300 I Street, Suite 950, Sacramento, California 958 14.

On October 1, 1999, I served the:

The Adopted by the Commission On State Mandates for the following claim:

**CSM-4485 Mandate Reimbursement Process**

Statutes of 1975, Chapter 486

Statutes of 1984, Chapter 1459

Statutes of 1995, Chapter 303 (Budget Act of 1995)

Statutes of 1996, Chapter 162 (Budget Act of 1996)


Statutes of 1997, Chapter 282 (Budget Act of 1997)

Statutes of 1998, Chapter 324 (Budget Act of 1998)

Statutes of 1999, Chapter 50 (Budget Act of 1999)

by placing a true copy thereof in an envelope addressed to each of the persons listed on the mailing list, and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 1, 1999, at Sacramento, California.



CHRISTINE WEIN



COMMISSION ON STATE MANDATES  
REVISED NOTICE AND AGENDA – September 13, 2000

State Capitol, Room 126  
Sacramento, California

September 28, 2000

9:30 A.M. - PUBLIC SESSION

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES

Item 1 August 24, 2000

III. PROPOSED CONSENT CALENDAR (action)

*Note: If there are no objections to any of the following action items with an asterisk, the Executive Director will include the item(s) on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.*

IV. HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

Note: Witnesses will be sworn in en masse before consideration of Items 2-13.

A. TEST CLAIMS

Item 2 *Photographic Record of Evidence - 98-TC-07*  
City of Los Angeles, Claimant  
Penal Code Section 1417.3  
Statutes of 1985, Chapter 875; Statutes of 1986, Chapter 734;  
Statutes of 1990, Chapter 382

Item 3 *Law Enforcement Racial and Cultural Diversity Training*  
97-TC-06  
County of Los Angeles, Claimant  
Penal Code Section 13519.4  
Statutes of 1992, Chapter 1267

Item 4 *Health Benefits for Survivors of Peace Officers and Firefighters*  
97-TC-25  
City of Palos Verdes Estates, Claimant  
Labor Code Section 4856, Subdivisions (a) and (b)  
Statutes of 1996, Chapter 1120; Statutes of 1997, Chapter 193

- Item 5      *Budget Process Financial Statements, and County Oversight - 97-TC-19*  
Alameda County Office of Education, Claimant  
Education Code Sections 1241.5, 17150/17850, 33127, 33128, 33129, 33132, 35035, 42100, 42101, 42103, 42122, 42123, 42124, 42125, 42126, 42127, 42127.1, 42127.2, 42127.3, 42127.4, 42127.5, 42127.6, 42127.9, 42128, 42129, 42130, 42131, 42133, 42140, 42141, 42142, and 42637 and Government Code Section 3540.2  
Statutes of 1975, Chapter 125; Statutes of 1977, Chapter 36; Statutes of 1979, Chapters 221 and 282; Statutes of 1980, Chapter 1354; Statutes of 1981, Chapters 100 and 1093; Statutes of 1984, Chapter 134; Statutes of 1985, 185 and 741; Statutes of 1986, Chapter 1150; Statutes of 1987, Chapter 917, 1025 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1989, Chapter 1256; Statutes of 1990, Chapter 525; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 237, 923 and 924; Statutes of 1994, Chapter 650 and 1002; Statutes of 1995, Chapter 525 and 530; Statutes of 1996, Chapters 227, 1071 and 1158  
California Code of Regulations Title 5 Sections 15440-15466  
California Department of Education Fiscal Management Advisories 86-02, 86-03, 87-01, 88-01, 88-10, 92-03 and Management Advisories 92-06, 92-07, 92-08, 93-02, 94-01, 94-02, 94-07, 95-03, 95-04, 95-07, 96-08
- Item 6      *County Office Budget Process and Financial Statements - 97-TC-20*  
Alameda County Office of Education, Claimant  
Education Code Sections 1040, 1240, 1240.2, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1628, 1630, 14050, 33127, 33128, 33129, 33132, 42120, 42129, and 42133  
Statutes of 1975, Chapter 125; Statutes of 1977, Chapter 843; Statutes of 1979, Chapters 10 and 221; Statutes of 1983, Chapter 1276; Statutes of 1985, Chapter 741; Statutes of 1986, Chapter 1150; Statutes of 1987, Chapters 917 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1989, Chapter 1256; Statutes of 1990, Chapter 1372; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapters 650 and 1002; Statutes of 1995, Chapter 525  
California Code of Regulations Title 5 Sections 15467-15493  
California Department of Education Fiscal Management Advisories 86-02, 86-03, 87-01, 88-01, 88-10, 92-03 and Management Advisories 92-06, 92-07, 92-08, 93-02, 94-01, 94-02, 94-07, 95-03, 95-04, 95-07, 96-08

B. PROPOSED STATEMENTS OF DECISION – TEST CLAIMS

- Item 7\* *Sexual Harassment Training in the Law Enforcement Workplace*  
97-TC-07  
County of Los Angeles, Claimant  
Penal Code Section 13519.6  
Statutes of 1993, Chapter 126
- Item 8\* *Child Abuse Treatment Services Authorization* - 98-TC-06  
County of Los Angeles, Claimant  
Penal Code Sections 273.1, 273a, and 273d  
Statutes of 1996, Chapter 1090
- Item 9\* *Physical Education Reports* - 98-TC-08  
Bakersfield City School District and Sweetwater Union High School  
District, Co-Claimants  
Education Code Section 51223.1  
Statutes of 1997, Chapter 640
- Item 10\* *Behavioral Intervention Plans* - CSM-4464  
Butte County Office of Education, San Diego Unified School District, and  
San Joaquin County Office of Education, Co-Claimants  
Education Code Section 56523  
Statutes of 1990, Chapter 959  
Title 5, California Code of Regulations,  
Sections 3001 and 3052

C. PROPOSED STATEMENT OF DECISION - INCORRECT REDUCTION CLAIM

- Item 11\* *Graduation Requirements* – CSM 4435-I-01 and 4435-I-37  
San Diego Unified School District, Claimant  
Education Code Section 51225.3  
Statutes of 1983, Chapter 498

D. PROPOSED STATEMENT OF DECISION – DISMISSAL OF TEST CLAIMS

- ~~Item~~ ~~*Academic Assessments*~~  
12A\* ~~San Diego Unified School District, Claimant~~  
~~Withdrawal and Dismissal of Education Code Sections 60605 and 60607,~~  
~~Subdivisions (b) – (e)~~  
~~Statutes of 1997, Chapter 828~~  
~~(Severed from 97-TC-23)~~
- Item *In-Home Supportive Services* – CSM 4314  
12B\* County of Los Angeles and County of Fresno, Co-Claimants  
Statutes of 1981, Chapter 69

E. PROPOSED STATEMENT OF DECISION – APPEAL OF THE EXECUTIVE DIRECTOR'S DECISION

- Item 13\* San Diego Unified School District's Appeal of the Executive Director's Action Granting Department of Finance an Extension for Filing Comments on *Charter Schools II* - 99-TC-03, Los Angeles County Office of Education and San Diego Unified School District, Co-Claimants, Statutes of 1998, Chapters 34 and 673

V. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

- Item 14\* *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* – 97-TC-05  
County of Los Angeles, Claimant  
Government Code Section 7576  
Statutes of 1984, Chapter 1747; Statutes of 1985, Chapter 1274,  
Statutes of 1996, Chapter 654  
California Code of Regulations, Title 2, Division 9, Chapter 1  
California Department of Mental Health Information Notice No: 86-29

B. ADOPTION OF PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

- Item 15 *School Bus Safety I and II* – 99-PGA-02 (97-TC-22)  
Clovis Unified School District, Requester  
Education Code Sections 39831.3, 38048, 39831.5 and  
Vehicle Code Section 22112  
Statutes of 1992, Chapter 624; Statutes of 1994, Chapter 831;  
Statutes of 1996, Chapter 277; Statutes of 1997, Chapter 739
- Item 16\* *School Crimes Statistics and Validation Reporting*  
Education Code Section 14044  
Penal Code Sections 628, 628.1, 628.2, and 628.6  
Statutes of 1984, Chapter 1607; Statutes of 1988, Chapter 78;  
Statutes of 1989, Chapter 1457  
California Department of Education's "Standard School Crime Reporting Forms"  
Proposed Amendment to add: *School Crimes Reporting II* - 97-TC-03  
San Diego Unified School District, Claimant  
Penal Code Sections 628.2 and 628.6, as amended by Statutes of 1996,  
Chapter 410; Title 5, California Code of Regulations, Sections 700-704



- Item 17\* *Mandate Reimbursement Process* - CSM-4485  
Statutes of 1975, Chapter 486; Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995); Statutes of 1996,  
Chapter 162 (Budget Act of 1996); Statutes of 1997, Chapter 282 (Budget Act  
of 1997); Statutes of 1998, Chapter 324 (Budget Act of 1998); Statutes of  
1999, Chapter 50 (Budget Act of 1999); Statutes of 2000, Chapter 52 (Budget  
Act of 2000)

C. ADOPTION OF REGULATIONS PURSUANT TO GOVERNMENT CODE  
SECTION 17527, SUBDIVISION (g).

- Item 18 Adoption of Proposed Amendments to California Code of Regulations,  
Title 2, Chapter 2.5 Adding Section 1183.09, As Modified on August  
24, 2000, After Close of Public Comment Period - *Dismissal of Actions  
Postponed or Placed on Inactive Status*
- Item 19 Approval of Modifications After Close of Public Comment Period:  
Proposed Amendments to California Code of Regulations, Title 2,  
Chapter 2.5, Amending Sections 1181.1, 1183, 1183.05, 1183.12,  
1185, 1185.01, 1185.02, 1185.2, 1188.4 of Chapter 2.5 of Division 2,  
Title 2 of the California Code of Regulations - (AB 1679)

VI. EXECUTIVE DIRECTOR'S REPORT (info)

- Item 20 Workload, Legislation, Future Agendas

VII. PUBLIC COMMENT

VIII. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE  
SECTIONS 11126 and 17526. (Closed Executive Session may begin at this time or  
may begin earlier on this day and reconvene at the end of the meeting.)

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as  
necessary and appropriate, upon the following matters pursuant to Government Code  
section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.*, Case Number  
SCV52190, in the Superior Court of the State of California, County of Los  
Angeles.
2. *County of Sonoma v. Commission on State Mandates, et al.*, Case Number  
A089524, in the Appellate Court of California, First Appellate District,  
Division 1.
3. *San Diego Unified School District v. Commission on State Mandates, et al.*,  
Case Number GIC 737638, in the Superior Court of the State of California,  
County of San Diego.

4. *Long Beach Unified School District v. Commission on State Mandates*, Case Number BS061159, in the Superior Court of the State of California, County of Los Angeles.
5. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
6. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number 00CS00866, in the Superior Court of the State of California, County of Sacramento.
7. *City of El Monte et al. v. Commission on State Mandates*, Petition for Review pending in the Supreme Court [Case Number 3 Civil C025631, in the Appellate Court of California, Third Appellate District and Sacramento County No. 95CS02704].
8. *City of San Diego v. Commission on State Mandates, et al.* Case Number GIC 751187, in the Superior Court of the State of California, County of San Diego.
9. *County of Los Angeles v. Commission on State Mandates, et al.* Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i)).

#### B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from Personnel Sub-Committee.

#### IX. REPORT FROM CLOSED EXECUTIVE SESSION

#### ADJOURNMENT

## ITEM 17

### AMENDMENT TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)

#### *Mandate Reimbursement Process*

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#### EXECUTIVE SUMMARY

The *Mandate Reimbursement Process* parameters and guidelines allow local agencies and school districts to be reimbursed for costs incurred in preparing and presenting successful test claims and submitting reimbursement claims to the State Controller. Incorrect reduction claims are considered an element of reimbursement claims. The original parameters and guidelines were adopted on November 20, 1986.

Since 1995, the State Budget Act has included supplemental language in the support appropriations for the State Controller's Office and the Commission on State Mandates. This language addresses local reimbursement for the costs of contracting with an independent contractor. The Commission adopted Appendix A to comply with the supplemental language.

Each year, the Commission has amended these parameters and guidelines and Appendix A to reflect this language. The Budget Act of 2000 states:

"The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that necessarily would have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement authorized by subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate

documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district."<sup>1</sup>

#### **Written Comments**

After enactment of the 2000 Budget Act, staff updated the captions of the 1999 parameters and guidelines and "Appendix A" to cite the Budget Act of 2000. Staff mailed the proposal to affected state agencies and interested parties for review and comment on July 25, 2000. Comments were due August 28, 2000. As of August 31, 2000, no comments had been received.

#### **Staff Analysis**

Other than updating the captions of the parameters and guidelines and "Appendix A" to cite the Budget Act of 2000, no changes were made to the 1999 parameters and guidelines for this claim.

#### **Staff Recommendation**

Staff recommends the Commission adopt the proposed amended parameters and guidelines (see Exhibit A).

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<sup>1</sup> Statutes of 1999, Chapter 50, p. 654, Item 8885-001-0001, Provision 1.

~~Adopted Hearing: September 30, 1999~~ September 28, 2000  
File: CSM-4485-9900 (67<sup>th</sup> Amendment)  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
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Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
f:\mandates\csm4000\4485\pga093099\pga092800  
Document Date: ~~September 15, 1999~~ July 21, 2000

## PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)

### *Mandate Reimbursement Process*

[For fiscal years 1995-96, 1996-97, 1997-98, 1998-99, ~~and 1999-00~~, and 2000-01 only, these parameters and guidelines are amended, pursuant to the requirements of (1) provision 11 of Item 0840-001-001 and provision 1 of Item 8885-001-001 of the Budget Act of 1995, (2) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1996, (3) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1997, (4) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1998, (5) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1999, (6) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 2000 to include Appendix A.]

### **I. Summary of Mandate**

Chapter 486, Statutes of 1975, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the State. In addition, Chapter 486/75 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Chapter 1459, Statutes of 1984, created the Commission on State Mandates, which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by Section 6 of Article XIII B of the California Constitution for State mandates under the Government Code, see section 17552.

Together these laws establish the process by which local agencies ~~are to receive~~ reimbursement for ~~S~~state-mandated programs. As such, they prescribe the procedures ~~which~~ that must be followed before mandated costs are ~~to be~~ recognized. They also dictate reimbursement activities by requiring ~~localities~~ local agencies and school districts to file claims according to instructions issued by the Controller.

## **II. Commission on State Mandates Decision**

On March 27, 1986, the Commission on State Mandates determined that local agencies and school districts incurred "costs mandated by the ~~S~~state" as a result of Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984. Specifically, the commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. Eligible Claimants**

All local agencies and school districts incurring increased costs as a result of this mandate are eligible to claim reimbursement of those costs.

## **IV. Period of Claim**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed.

## **V. Reimbursable Costs**

### **A. Scope of Mandate**

Local agencies and school districts filing successful test claims and reimbursement claims incur ~~S~~state-mandated costs. The purpose of this test claim was is to establish that local governments (counties, cities, school districts, special districts, etc.) cannot be made financially whole unless all state- mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and

reimbursement claims but for the implementation of State-imposed mandates, all resulting costs are recoverable.

#### **B. Reimbursable Activities -- Test Claims**

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

#### **C. Reimbursable Activities -- Reimbursement Claims**

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

### **VI. Claim Preparation**

#### **A. Supporting Data**

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state-mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

#### **B. Salaries and Benefits**

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

### C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate.

### D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

### E. Training

#### 1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

#### 2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

### F. Indirect Costs

#### 1. Local Agencies

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Local agencies must claim indirect costs based on the following alternatives:

Compensation for indirect costs is eligible for reimbursement using the procedure provided in the OMB Circular A-87. Claimants have the option of using ten (10) percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds ten (10) percent. If more than one department claims indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB Circular A-87 (or subsequent replacement). An ICRP must be submitted with the claim when the indirect cost rate exceeds ten (10) percent.

#### 2. School Districts

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.



### 3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

### 4. Community College Districts

Community College Districts must use one of the following three alternatives:

- a. An ICRP based on OMB Circular A-21;
- b. The State Controller's FAM-29C which uses the CCFS-311; or
- c. Seven percent (7%).

## VII. Offsetting Savings and Other Reimbursement

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claims. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

## VIII. Required Certification

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

---

SIGNATURE OF AUTHORIZED REPRESENTATIVE

---

DATE

---

TITLE

---

TELEPHONE NUMBER

(Continue to Appendix A)

## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-96, 1996-97, 1997-98, 1998-99, and 1999-00, and 2000-01<sup>1</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for

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<sup>1</sup> The limitation added by (1) the Budget Act of 1995, Chapter 303, Statutes of 1995, in Item 0840-001-001, Provision 11, and in Item 8885-001-001, Provision 1, (2) the Budget Act of 1996, Chapter 162, Statutes of 1996, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, Chapter 282, Statutes of 1997, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, Chapter 324, Statutes of 1998, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, Chapter 50, Statutes of 1999, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, Chapter 52, Statutes of 2000, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.



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COMMISSION ON  
STATE MANDATES

ORIGINAL

**PUBLIC HEARING**

**COMMISSION ON STATE MANDATES**

--oOo--

TIME: 9:38 a.m.

DATE: Thursday, September 28, 2000

PLACE: Commission on State Mandates  
State Capitol, Room 126  
Sacramento, California

--oOo--

REPORTER'S TRANSCRIPT OF PROCEEDINGS

--oOo--

Reported By:

DANIEL P. FELDHAUS  
CSR #6949, RDR, CRR

A P P E A R A N C E S

COMMISSIONERS PRESENT

ANNETTE PORINI, Chair  
Representative of B. TIMOTHY GAGE, Director  
State Department of Finance

BRUCE ROBECK  
Representative for KATHLEEN CONNELL  
State Controller

HEATHER A. HALSEY  
Representative of ~~LORETTA LYNCH~~ Steven Nissen  
Director, Office of Planning and Research

JOHN S. LAZAR  
City Council Member  
Turlock City Council

WILLIAM SHERWOOD, Vice Chair  
Representative of PHILIP ANGELIDES  
State Treasurer

JOANN E. STEINMEIER  
School Board Member  
Arcadia Unified School District

--o0o--

COMMISSION STAFF PRESENT

PAULA HIGASHI, Executive Director

PAT HART-JORGENSEN, Chief Counsel

SEAN AVALOS, Staff Counsel

TOM DEMPSEY, Staff Member

KATHY LYNCH, Staff Counsel

PIPER RODRIAN, Staff Services Analyst

DAVID SCRIBNER, Staff Counsel

JULIE SHELTON, Staff Services Analyst

CAMILLE SHELTON, Staff Counsel

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I N D E X

Proceedings

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IV. Hearings and Decisions, Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7

E. Proposed Statement of Decision - Appeal of the Executive Director's Decision

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Los Angeles County Office of Education and San Diego Unified School District  
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Item 14 Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services  
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B. Adoption of Proposed Amendments to Parameters and Guidelines

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CSM-4485  
Consent item . . . . . 31

C. Adoption of Regulations Pursuant to Government Code Section 17527(g)

Item 18 Adoption of Proposed Amendments to California Code of Regs, Title 2, Chapter 2.5, Adding Section 1183.09  
Presented by Pat Jorgensen-Hart . 105

(continued)

1 All right, may I have roll call?

2 MS. HIGASHI: Ms. Halsey?

3 MEMBER HALSEY: ~~Aye.~~ NO

4 MS. HIGASHI: Mr. Lazar?

5 MEMBER LAZAR: Aye.

6 MS. HIGASHI: Mr. Robeck?

7 MEMBER ROBECK: Aye.

8 MS. HIGASHI: Mr. Sherwood?

9 MEMBER SHERWOOD: Aye.

10 MS. HIGASHI: Ms. Steinmeier?

11 MEMBER STEINMEIER: Aye.

12 MS. HIGASHI: Ms. Porini?

13 CHAIR PORINI: No.

14 MS. HIGASHI: The motion carries.

15 MS. STONE: Thank you very much.

16 MS. HIGASHI: Could we take just about a  
17 five-minute break? We have someone in here who can check  
18 the microphone system.

19 CHAIR PORINI: Thank you.

20 (Off the record from 10:02 a.m. to 10:14 a.m.)

21 CHAIR PORINI: I'm not sure whether the  
22 microphones are working now. I understand they're going  
23 to send a technician down, so we'll give it a shot. And  
24 if it works, that's fine; if not, we'll just have to rely  
25 on our recorder and hope that folks can speak loudly.

26 Before we get going on this next test claim,  
27 shall we take up the consent calendar?

28 MS. HIGASHI: We'll take up the consent



1 calendar.

2 CHAIR PORINI: Okay.

3 MS. HIGASHI: The consent calendar consists of  
4 Items 7, 8, 9, 10 as revised, Item 11, Item 13 as  
5 revised, Item 16 and Item 17.

6 CHAIR PORINI: All right, any questions or  
7 comments from members? Anything that needs to be removed  
8 from consent calendar?

9 Do I have a motion?

10 MEMBER LAZAR: So moved.

11 MEMBER STEINMEIER: Second.

12 CHAIR PORINI: I have a motion and a second to  
13 adopt the consent calendar.

14 All those in favor, indicate with "aye."

15 *(A chorus of "ayes" was heard.)*

16 CHAIR PORINI: Opposed?

17 Consent calendar is adopted.

18 MS. HIGASHI: This brings us to Item 3. This  
19 is the test claim on Law Enforcement, Racial and Cultural  
20 and Diversity Training. This item was first heard last  
21 month.

22 Ms. Shelton will present this item.

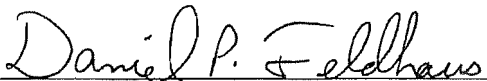
23 CAMILLE SHELTON: This test claim addresses the  
24 basic training requirement for peace officer recruits.  
25 As indicated by Ms. Higashi, the test claim was  
26 originally presented to the Commission last month, and  
27 the Commission continued the item based on the claimant's  
28 testimony that it was limiting its test claim to request

REPORTER'S CERTIFICATE

I hereby certify that the foregoing proceedings were reported by me at the time and place therein named; that the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings, nor in any way interested in the outcome of the cause named in said matter.

In witness whereof, I have hereunto set my hand this 2nd day of October 2000.

  
\_\_\_\_\_  
DANIEL P. FELDHAUS  
CSR #6949, RDR, CRR

## **MINUTES**

### **COMMISSION ON STATE MANDATES**

State Capitol, Room 126  
Sacramento, California

September 28, 2000

#### **9:30 A.M. - PUBLIC SESSION**

Present: Chairperson Annette Porini  
Representative of the Director of the Department of Finance  
Member William Sherwood  
Representative of the State Treasurer  
Member Heather Halsey  
Representative of the Director of the Office of Planning and Research  
Member Bruce Robeck  
Representative of the State Controller  
Member Joann Steinmeier  
School Board Member  
Member John Lazar  
City Council Member

Absent: Member Albert Beltrami  
Public Member

#### **CALL TO ORDER AND ROLL CALL**

Chairperson Porini called the meeting to order at 9:34 a.m. Paula Higashi, Executive Director to the Commission, noted that Member Beltrami was on vacation this month. She introduced the new Commission staff: Kathy Lynch, Staff Counsel and Tom Dempsey, Office Technician, and announced that Julie Shelton was promoted to Staff Services Analyst.

#### **APPROVAL OF MINUTES**

Item 1 August 24, 2000

With a motion by Member Sherwood and a second by Member Steinmeier, the minutes were adopted unanimously.

#### **HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7**

Ms. Higashi swore in all witnesses for the Article 7 hearing en masse.

#### **TEST CLAIMS**

Item 2 *Photographic Record of Evidence* - 98-TC-07  
City of Los Angeles, Claimant  
Penal Code Section 1417.3  
Statutes of 1985, Chapter 875; Statutes of 1986, Chapter 734;  
Statutes of 1990, Chapter 382

David Scribner, Staff Counsel, presented this item. He noted that staff found that the test claim legislation imposed a new program by requiring local law enforcement agencies to provide a photographic record of evidence for evidence that poses a health, safety, security or storage problem; to provide a certified chemical analysis of evidence that poses a health hazard; and to store the evidence. Mr. Scribner added that staff disagreed with the Department of Finance (DOF) that Government Code section 17556, subdivision (e) is applicable to this claim because there is no evidence that the test claim legislation provided offsetting savings for total costs.

Parties were represented as follows: Pamela Stone, Steven Johnson, and Norman Lee, with the Los Angeles (LA) Police Department, Allan Burdick, with the California State Association of Counties and the LA Police Department; and Cedrik Zemitis, with the Department of Finance.

Ms. Stone thanked staff and noted her agreement with the staff analysis.

Mr. Lee, Officer in Charge of the Narcotics Division Complaint Detail, Valley Filing Team, LA Police Department, also agreed with staff's analysis. He explained that photographic records of evidence are necessary because defendants cannot introduce drugs into evidence at trial because possession would constitute a violation of criminal statutes.

Mr. Johnson, Chief Forensic Chemist, Assistant Laboratory Director, LA Police Department, testified that the test claim legislation has significantly impacted the operation of his laboratory. He claimed that it was necessary to hire two additional staff members to handle the increased workload due to imaging, printing, and distributing photographs of narcotics evidence.

Member Sherwood asked if there was a photographic requirement prior to the test claim legislation. Mr. Johnson replied that there was not. He explained that, years ago, the evidence was introduced into court and the court maintained custody of the evidence and then destroyed it. More recently, the court released the evidence back to the police department, which imposed additional storage and destruction requirements on the department. Currently, an officer picks up pictures of the evidence to take to court rather than the evidence itself.

Member Sherwood asked if the department was voluntarily using photographic evidence prior to the test claim legislation. Mr. Johnson replied that they were on a very limited basis.

Member Sherwood asked if anyone knew whether other departments in the state were using photographic evidence. Ms. Stone said that Fresno County was not routinely using it because of the costs imposed and because the actual evidence was considered better. Mr. Johnson replied that Los Angeles County Sheriff's were implementing their program at the same time as his department was and they had not been photographing narcotics evidence prior to implementation of this program. Mr. Burdick responded that very few law enforcement agencies were using photographic evidence before the requirement. He urged the Commission to adopt staff's recommendation.

Member Robeck asked who determines what substances are hazardous. Mr. Johnson replied that, in LA County, the police department, sheriff's department and superior court presiding judge met and the judge issued a standing order that no narcotics or controlled substances would be allowed. Ms. Stone said that there is a list of classifications of toxic and hazardous

chemicals published by the Environmental Protection Agency (EPA), which serves as guidance. She added that the list would not be an exclusive list.

Member Sherwood asked how the State Controller's Office (SCO) would know which claims to pay if the Parameters and Guidelines did not clarify which substances were toxic. Member Robeck agreed that clarification was necessary. He suggested that using the EPA's list is one method, but added that it would also be a decision by the judge as to what constituted evidence that had to be photographed. Member Robeck explained that standing policies on narcotics or firearms would be acceptable, but it was also important to put boundaries on what constitutes a hazardous substance or poses a health hazard.

Ms. Stone added that the Department of Health Services also publishes a list classifying toxic materials. Member Robeck asked for clarity on the process for making the determination.

Mr. Scribner suggested adding standing orders of the superior court and the EPA list to the Parameters and Guidelines plus a requirement to provide supporting documentation for any substance not included in the orders or on the list.

Mr. Zemitis disagreed with staff's interpretation of *Carmel Valley*, and argued that the statute impacts both the government and private parties, the defense and the defendant, and so no reimbursable mandate exists. If the Commission found a mandate, Mr. Zemitis submitted that cost savings experienced by the claimant should offset reimbursement.

Member Halsey asked who had funded the courts for storage of evidence. Ms. Stone replied that they were funded through trial court funding, a state-funded program.

Mr. Scribner summarized that, in *Carmel Valley*, the court found that fire protection is generally a governmental function provided by the state, although a small percentage of private firefighters may exist. In this case, provision of evidence is a function of the government, although there might be a possibility the defendant could provide this material.

Member Steinmeier agreed with Mr. Johnson that officers transport either physical or photographic evidence and so there is no offset. Member Halsey asked if some of the costs for equipment were one-time costs. Mr. Johnson agreed that the initial equipment investment was a one-time cost and that ongoing costs are for labor to perform the functions of imaging or photographing the material. Member Halsey asked if there would be a cost savings later. Mr. Johnson replied that printers would be purchased and periodically replaced, but labor and supply costs are ongoing.

Member Steinmeier moved staff's recommendation. Member Lazar seconded the motion. The motion carried 4-2, with Chairperson Porini and Member Halsey voting "No."

[A break was taken from 10:02 a.m. to 10:14 a.m.]

## PROPOSED CONSENT CALENDAR

### PROPOSED STATEMENTS OF DECISION – TEST CLAIMS

- Item 7     *Sexual Harassment Training in the Law Enforcement Workplace*  
97-TC-07  
County of Los Angeles, Claimant  
Penal Code Section 13519.6  
Statutes of 1993, Chapter 126
- Item 8     *Child Abuse Treatment Services Authorization* - 98-TC-06  
County of Los Angeles, Claimant  
Penal Code Sections 273.1, 273a, and 273d  
Statutes of 1996, Chapter 1090
- Item 9     *Physical Education Reports* - 98-TC-08  
Bakersfield City School District and Sweetwater Union High School  
District, Co-Claimants  
Education Code Section 51223.1  
Statutes of 1997, Chapter 640
- Item 10    *Behavioral Intervention Plans* - CSM-4464  
Butte County Office of Education, San Diego Unified School District, and  
San Joaquin County Office of Education, Co-Claimants  
Education Code Section 56523  
Statutes of 1990, Chapter 959  
Title 5, California Code of Regulations,  
Sections 3001 and 3052

### PROPOSED STATEMENT OF DECISION - INCORRECT REDUCTION CLAIM

- Item 11    *Graduation Requirements* – CSM 4435-I-01 and 4435-I-37  
San Diego Unified School District, Claimant  
Education Code Section 51225.3  
Statutes of 1983, Chapter 498

### PROPOSED STATEMENT OF DECISION – APPEAL OF THE EXECUTIVE DIRECTOR’S DECISION

- Item 13    San Diego Unified School District’s Appeal of the Executive Director’s  
Action Granting Department of Finance an Extension for Filing Comments  
on *Charter Schools II* - 99-TC-03, Los Angeles County Office of Education  
and San Diego Unified School District, Co-Claimants, Statutes of 1998,  
Chapters 34 and 673

### ADOPTION OF PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

- Item 16    *School Crimes Statistics and Validation Reporting*  
Education Code Section 14044  
Penal Code Sections 628, 628.1, 628.2, and 628.6

Statutes of 1984, Chapter 1607; Statutes of 1988, Chapter 78;  
Statutes of 1989, Chapter 1457  
California Department of Education's "Standard School Crime  
Reporting Forms"  
Proposed Amendment to add: *School Crimes Reporting II* - 97-TC-03  
San Diego Unified School District, Claimant  
Penal Code Sections 628.2 and 628.6, as amended by Statutes of 1996,  
Chapter 410; Title 5, California Code of Regulations, Sections 700-704

- Item 17      *Mandate Reimbursement Process* - CSM-4485  
Statutes of 1975, Chapter 486; Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995); Statutes of 1996,  
Chapter 162 (Budget Act of 1996); Statutes of 1997, Chapter 282 (Budget  
Act of 1997); Statutes of 1998, Chapter 324 (Budget Act of 1998); Statutes  
of 1999, Chapter 50 (Budget Act of 1999); Statutes of 2000, Chapter 52  
(Budget Act of 2000)

The proposed consent calendar, consisting of Items 7, 8, 9, 10 as revised, 11, 13 as revised, 16 and 17, was adopted unanimously upon motion by Member Lazar and second by Member Steinmeier.

## **HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7**

### **TEST CLAIMS**

- Item 3      *Law Enforcement Racial and Cultural Diversity Training*  
97-TC-06  
County of Los Angeles, Claimant  
Penal Code Section 13519.4  
Statutes of 1992, Chapter 1267

Camille Shelton, Staff Counsel, presented this item. Ms. Shelton explained that, at last month's hearing, the claimant had limited its test claim to request reimbursement for the activity of providing the basic training course for racial and cultural diversity to its new recruit employees. The item was continued to this hearing. Staff still recommended the Commission deny the test claim because the statute: 1) is not subject to Article XIII B, section 6 of the California Constitution, 2) does not impose any mandated duties on local agencies to provide basic training, including racial and cultural diversity training, and 3) does not require local agencies to incur costs to send their new employees to basic training.

Parties were represented as follows: Leonard Kaye, with the County of Los Angeles; Allan Burdick, with the California State Association of Counties; Steve Johnson, with the Los Angeles Police Department; and Jim Foreman and Tom Lutzenberger, with the Department of Finance.

Mr. Kaye referenced the County's letter to the Commission after the last hearing in which he restated his argument. He further noted Lieutenant Randy Olson's letter, which reported that the County's basic training academy had 13,211 graduates since 1975. Mr. Kaye agreed that

the requirement to complete the training course is imposed on the peace officer; however, the requirement to provide that training is on cities, counties, and community colleges. He urged the Commission find that basic training is a mandate imposed on "some" local agencies because some agencies implemented a basic training academy prior to the test claim legislation and prior to January 1, 1975.

Mr. Burdick did not agree that the finding should be for "some" local agencies because, he submitted, only agencies with costs would submit claims.

Mr. Johnson explained that asking recruits from other states to attend a training course at a California community college before applying with the department would be problematic, at best. He contended that the only way the department could deal with recruits coming from throughout the country is to provide training in-house. Further, Mr. Johnson submitted that trying to mesh the academy's schedule with that of a community college would be difficult.

Member Robeck asked what percentage of recruits came from out of state. Mr. Johnson and Mr. Burdick did not know that answer. Mr. Burdick added that, in other recruitment efforts, there is a high interest in coming to California.

Member Steinmeier commented that, unfortunately, it did not change the fact that the burden of paying for training falls upon the recruit. She noted that it was really an issue for the Legislature if there is a shortage of police officers and training is a problem. Member Steinmeier contended that the Commission must look at the subject legislation.

Mr. Kaye noted that the Commission could find that the trainer's time is reimbursable. Member Steinmeier replied that the Commission's abilities are narrowly focused and that she would, reluctantly, vote for staff's recommendation.

Mr. Foreman agreed with staff's analysis. He added that agencies providing this training are doing so at their discretion. Mr. Burdick replied that large agencies, such as Los Angeles County, provide the training because it is their only alternative. He compared Los Angeles to the Highway Patrol and the Department of Corrections. Mr. Foreman responded that those agencies are opting to provide training and are opting to pay for it. He submitted that the local agencies that have opted to provide training should also pay for it.

Member Robeck asked Mr. Kaye if he knew why there were 55 graduates in 1992 and no graduates in 1993. Mr. Kaye did not know why. Member Robeck moved staff's recommendation. With a second by Member Sherwood, the motion carried unanimously.

Item 4      *Health Benefits for Survivors of Peace Officers and Firefighters*  
97-TC-25  
City of Palos Verdes Estates, Claimant  
Labor Code Section 4856, Subdivisions (a) and (b)  
Statutes of 1996, Chapter 1120; Statutes of 1997, Chapter 193

Sean Avalos, Staff Counsel, introduced this item. He outlined the two issues before the Commission: 1) whether the requirement to provide survivor health benefits constitutes a new program and 2) whether the requirement to collectively bargain survivor health benefits constitutes a reimbursable mandate. To the first issue, contrary to Department of Finance's (DOF's) position, staff found that the requirement to provide benefits is not a law of general



application because the benefits are limited to peace officers and firefighters killed in the line of duty. To the second issue, the DOF maintained that the requirement to collectively bargain is not reimbursable because the subject legislation is a law of general application that eliminates the current exemption and that the claimant has the option to bargain. Staff disagreed and found that the elimination of the exemption does not create a law of general application since it is only imposed on local governments. Staff further found that local governments are required to collectively bargain if the parties raise the issue during negotiations. Mr. Avalos noted that staff's finding was limited to the agreement process and did not include reimbursement of benefits.

Parties were represented as follows: Jim Hendrickson and Pam Stone, with the City of Palos Verdes Estates; Allan Burdick, with the City of Palos Verdes Estates and the California State Association of Counties; and Kenneth Pogue, Attorney General, and John Hiber, with the Department of Finance.

Ms. Stone submitted that the subject legislation applies only to local government. She agreed with staff that local governmental entities must collectively bargain if the issue is raised and that the process, but not the resulting cost, is reimbursable.

Mr. Hendrickson agreed with staff's recommendation.

Member Halsey asked, with regard to collective bargaining, what activities would be reimbursable. Ms. Stone replied that it would be the actual cost of the negotiation for the particular issue plus the actual cost of materials and supplies.

Mr. Burdick supported staff's recommendation.

Mr. Pogue argued that the legislation merely removed the exemption to collective bargaining, which returned the process to the status quo. He agreed with staff that the payment of actual benefits was not reimbursable.

Member Halsey asked staff to explain prior law and the subject legislation. Mr. Avalos replied that the law immediately preceding the enacting statute exempted the claimant from collective bargaining on survivor health benefits. The statute lifted that exemption, which required the claimant to collectively bargain. Staff therefore concluded that a new program or higher level of service exists.

Mr. Hiber agreed with Mr. Pogue's comments.

Ms. Stone disagreed with Mr. Pogue and Mr. Hiber. She submitted that, prior to 1984, the benefits could be bargained for; however, the ability to provide this benefit was not specifically provided in statute. In other words, the benefit was not authorized to be given by law at that juncture.

Mr. Hiber agreed, but contended that not all retirement benefits exist in statute at the time that they are bargained.

Mr. Burdick argued that locals have no option but to bargain. He also noted that most of the peace officers and firefighters affected by this legislation are covered under the 1927 Act and not by PERS.

Member Halsey asked for clarification. Mr. Burdick responded that, if locals were doing something at their own option and then it was mandated, they are still eligible for reimbursement once the activity is mandated. Ms. Higashi noted that Mr. Burdick was referring to the provisions of Government Code section 17565.

Member Sherwood moved for approval of staff's recommendation. With a second by Member Lazar, the motion passed 5-1. Chairperson Porini voted "No."

[A break was taken from 10:53 a.m. to 10:57 a.m.]

- Item 5      *Budget Process Financial Statements, and County Oversight - 97-TC-19*  
Alameda County Office of Education, Claimant  
Education Code Sections 1241.5, 17150/17850, 33127, 33128, 33129, 33132, 35035, 42100, 42101, 42103, 42122, 42123, 42124, 42125, 42126, 42127, 42127.1, 42127.2, 42127.3, 42127.4, 42127.5, 42127.6, 42127.9, 42128, 42129, 42130, 42131, 42133, 42140, 42141, 42142, and 42637 and Government Code Section 3540.2  
Statutes of 1975, Chapter 125; Statutes of 1977, Chapter 36; Statutes of 1979, Chapters 221 and 282; Statutes of 1980, Chapter 1354; Statutes of 1981, Chapters 100 and 1093; Statutes of 1984, Chapter 134; Statutes of 1985, 185 and 741; Statutes of 1986, Chapter 1150; Statutes of 1987, Chapter 917, 1025 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1989, Chapter 1256; Statutes of 1990, Chapter 525; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 237, 923 and 924; Statutes of 1994, Chapter 650 and 1002; Statutes of 1995, Chapter 525 and 530; Statutes of 1996, Chapters 227, 1071 and 1158  
California Code of Regulations Title 5 Sections 15440-15466  
California Department of Education Fiscal Management Advisories 86-02, 86-03, 87-01, 88-01, 88-10, 92-03 and Management Advisories 92-06, 92-07, 92-08, 93-02, 94-01, 94-02, 94-07, 95-03, 95-04, 95-07, 96-08

Pat Hart Jorgensen, Chief Legal Counsel, introduced this item. She explained that many of the statutes alleged either recodified or reenacted provisions in existence immediately prior to the enactment of the test claim legislation. Further, several statutes were already denied under two previous test claims. Ms. Jorgensen noted that staff found that the basic requirements for schools to engage in budgetary activities were contained in prior law, however, some of the activities, as outlined in staff's analysis, are new and impose reimbursable costs.

Parties were represented as follows: Keith Petersen, with the Alameda County Office of Education; and Leslie Lopez, Attorney General, and Dan Troy, with the Department of Finance.

Mr. Petersen submitted that, in staff's analysis, staff made a blanket finding that financial management advisories are not executive orders. He submitted that this finding contradicts staff's position on every other test claim in which this matter has arisen. Mr. Petersen contended that, in those cases, staff has taken each advisory separately and determined whether

the contents contained duties imposed by the state as executive orders. In order to prevent this finding from being on the record, citing the Commission's regulations section 1188.3, he made oral application for the management advisories to be withdrawn without prejudice.

Ms. Jorgensen replied that staff did address these advisories and found that Education Code section 33308.5 provides that the guidelines are to be exemplary and not prescriptive. Therefore, compliance with the guidelines is not mandatory.

Ms. Higashi read aloud regulation section 1188.3 and asked Mr. Petersen if he was also including the regulations. Mr. Petersen clarified that he was only withdrawing the CDE management advisories.

Ms. Lopez requested the Commission hear the entire claim.

Member Robeck asked if Mr. Petersen had the right to withdraw all or a portion of his test claim. Ms. Higashi replied that he does, prior to the final decision. She added that he had done so before in the *Law Enforcement Agency Notifications* test claim.

Chairperson Porini asked if dismissed portions could come back before the Commission again. Ms. Higashi said that a new claimant could file on dismissed portions of a claim, subject to a new filing date.

Member Steinmeier asked what the Commission had to do procedurally. Ms. Higashi explained that staff would prepare a Statement of Decision for the dismissed portion for the Commission to adopt. Mr. Robeck asked why the Commission would not make a motion to sever. Ms. Higashi replied that that could have been done had the Commission acted first. At Member Halsey's request, Ms. Higashi read section 1188.3 aloud again. Member Halsey asked if the dismissal was a right, or was at the discretion of the Commission. Ms. Higashi indicated that it was the Commission's decision. Member Steinmeier indicated her concern about following the proper procedure.

Member Sherwood noted that this decision would not affect prior or future decisions, and therefore asked Mr. Petersen to explain his reasoning for the request. Mr. Petersen agreed that there is no precedent in Commission decisions. However, he wanted the Commission findings to be consistent and did not want these findings on the record since they are contrary to the way the Commission has approached this issue before.

Member Robeck moved that the items in question be severed from the test claim request and be dismissed. Member Steinmeier seconded the motion. The motion passed 5-1, with Member Halsey voting "No."

Mr. Petersen added that, regarding the other issues, he would stand on his writings. Ms. Lopez noted that the Department of Finance would reiterate its prior briefings and submit the matter. Member Steinmeier noted the complexity of the analysis and thanked staff.

Member Lazar moved to accept staff's recommendation, as amended. Member Steinmeier seconded the motion. The motion carried 4-2, with Members Halsey and Porini voting "No."

Item 6      *County Office Budget Process and Financial Statements - 97-TC-20*  
Alameda County Office of Education, Claimant  
Education Code Sections 1040, 1240, 1240.2, 1620, 1621, 1622, 1623,

1624, 1625, 1626, 1628, 1630, 14050, 33127, 33128, 33129, 33132, 42120, 42129, and 42133

Statutes of 1975, Chapter 125; Statutes of 1977, Chapter 843; Statutes of 1979, Chapters 10 and 221; Statutes of 1983, Chapter 1276; Statutes of 1985, Chapter 741; Statutes of 1986, Chapter 1150; Statutes of 1987, Chapters 917 and 1452; Statutes of 1988, Chapters 1461 and 1462; Statutes of 1989, Chapter 1256; Statutes of 1990, Chapter 1372; Statutes of 1991, Chapter 1213; Statutes of 1992, Chapter 323; Statutes of 1993, Chapters 923 and 924; Statutes of 1994, Chapters 650 and 1002; Statutes of 1995, Chapter 525

California Code of Regulations Title 5 Sections 15467-15493

California Department of Education Fiscal Management Advisories 86-02, 86-03, 87-01, 88-01, 88-10, 92-03 and Management Advisories 92-06, 92-07, 92-08, 93-02, 94-01, 94-02, 94-07, 95-03, 95-04, 95-07, 96-08

Pat Hart Jorgensen introduced this item. She noted that it was almost identical to Item 5, except that the item pertains to county offices of education.

Parties were represented as follows: Keith Petersen, with the Alameda County Office of Education; and Leslie Lopez, Attorney General and Dan Troy, with the Department of Finance (DOF).

As in Item 5, Mr. Petersen had the same request to withdraw the management advisories of the State Department of Education. Member Robeck moved to sever and dismiss the withdrawn advisories. With a second by Member Steinmeier, the motion carried 5-1. Member Halsey voted "No."

In addition to DOF's comments on Item 5, Ms. Lopez stated that DOF disagreed with staff's finding regarding encumbering contracts and other obligations and reporting the payables and receivables (see bullets 2 and 4 on page 18 of the staff analysis). She submitted that those activities are standard duties that have always existed within general accounting practices. Ms. Lopez added that Mr. Jeff Brownfield of the Controller's Office concurred with that conclusion, and she therefore requested those two items be denied.

Ms. Jorgensen explained that, when the county office of education is found to be unable to meet its financial obligations, it must encumber all contracts and other obligations, as well as prepare appropriate cash flow analyses. Staff found that this goes above and beyond regular budgeting.

Ms. Lopez replied that those activities would have to be carried out whether or not there was a negative finding. Mr. Petersen replied that it imposed a higher level of scrutiny.

Member Halsey questioned whether recording receivables and payables was standard practice. Discussion ensued among the members and parties as to whether this activity was standard practice or a higher level of service. Ms. Jorgensen read aloud Education Code section 1630, subdivision (a) (4). Member Sherwood stated that the Commission could assume the accounts receivables and payables had been recorded, but that the county office of education was attesting, or certifying, in this report that they had been recorded.

Member Halsey was concerned that, if the Commission approved this, it would subvent basic bookkeeping that should already be funded.

Member Robeck noted that the statute says, "To appropriately record all receivables and payables," which, he submitted, implied a task of reviewing. Member Robeck recommended changing the language in staff's analysis to reflect the statute.

Ms. Jorgensen suggested adding to the end of that sentence: "in compliance with the obligations under Education Code section 1630, subdivision (a) (4)."

Mr. Petersen noted that this test claim applies to county office fiscal insolvency, which has not happened yet, so they were all speculating what the format would look like, if it occurs. Member Steinmeier replied that, the Commission should therefore include broad language, or reference the law. Mr. Petersen agreed with Ms. Jorgensen's suggestion. Member Steinmeier moved staff's recommendation, as amended. Mr. Robeck seconded the motion. The motion carried 4-2, with Members Halsey and Porini voting "No."

#### ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

- Item 14      *Seriously Emotionally Disturbed (SED) Pupils: Out-of-State Mental Health Services* – 97-TC-05  
County of Los Angeles, Claimant  
Government Code Section 7576  
Statutes of 1984, Chapter 1747, Statutes of 1985, Chapter 1274,  
Statutes of 1996, Chapter 654  
California Code of Regulations, Title 2, Division 9, Chapter 1  
California Department of Mental Health Information Notice No: 86-29

Ms. Higashi noted that this item had been taken off the consent calendar at the request of the State Controller's Office (SCO).

Parties were represented as follows: Leonard Kaye, with the County of Los Angeles; Jesse McGuinn, with the Department of Finance (DOF); and Shawn Silva, with the SCO.

Mr. Kaye explained that the issue was regarding the sentence under the Case Management section reading: "Including the cost of case-specific litigation over mental health treatment and/or psychotropic administration issues." He suggested deleting that phrase from the Parameters and Guidelines and for the claimant to work with the SCO to come up with an amendment at some future time to specify the particular types and conditions for reimbursement of litigation.

Mr. Silva agreed that the proposed deletion would address the SCO's concern that the language was too broad and may therefore include litigation costs which may not truly be mandated by the state and by the subject legislation.

Ms. McGuinn noted that the DOF did not have prior knowledge of this issue and so she was not prepared to agree to any change until she had an opportunity to look at these issues.

Alternatively, Mr. Kaye recommended the adoption of the staff recommendation, as written. Mr. Silva did not agree.

The Chair recommended continuing the item for one month to allow the parties to discuss the issue. Mr. Kaye requested a date certain for receipt of a detailed written analysis of a legal basis on this issue. Ms. Higashi offered to meet with the parties after the hearing to set that date.

#### ADOPTION OF PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

- Item 15      *School Bus Safety I and II* – 99-PGA-02 (97-TC-22)  
Clovis Unified School District, Requester  
Education Code Sections 39831.3, 38048, 39831.5 and  
Vehicle Code Section 22112  
Statutes of 1992, Chapter 624; Statutes of 1994, Chapter 831;  
Statutes of 1996, Chapter 277; Statutes of 1997, Chapter 739

Camille Shelton, Staff Counsel, presented this item. She noted that the claimant requested that the reimbursement period in the Parameters and Guidelines be changed to allow reimbursement for start-up costs incurred by school districts from the enactment date of the statute, October 7, 1997, rather than from the effective and operative date of the statute, January 1, 1998.

Ms. Shelton noted that staff recommended denial of this request. She contended that the California Constitution and the courts have explained that a statute has no force or effect for any reason until the effective and operative date. Ms. Shelton added that the parties do not dispute that the effective and operative date is January 1, 1998. Moreover, there is no indication that the Legislature intended compliance before that date.

Parties were represented as follows: Bill McGuire, with Clovis Unified School District; Jim Cunningham, Interested Party, with San Diego Unified School District; Matt Aguilera, with Department of Finance; and Allan Burdick, with the California State Association of Counties.

Mr. McGuire agreed that staff's report was based on the Constitution and statutes, but wanted to talk about reasonableness and intent. He argued that, with this law, the Legislature intended districts to ensure student safety on January 1, 1998. Mr. McGuire submitted that the California Highway Patrol (CHP) informed his district that enforcement of the law would begin on January 2, 1998, the first day back from winter break. He noted the problems that would occur if another child was killed on January 2 and the district was not yet in compliance. He asked the Commission to approve the request and not to penalize districts that attempted to be in compliance by the operative date.

Mr. Cunningham argued that the Commission, when it decided against reimbursement for start-up costs, was concerned that Government Code section 17565 precluded them from finding reimbursable costs. He submitted that today staff agreed section 17565 was not their basis for denying costs. Mr. Cunningham contended that the California Constitution requires the state to reimburse school districts for the costs of a new program and does not speak to when these costs were incurred. He disagreed that the Constitutional provision cited in staff's current analysis related to mandates and argued that the Commission's regulations should provide for the most reasonable means of complying with a statute.

Mr. Aguilera concurred with staff's recommendation because the Education Code did not require local agencies to begin activities prior to the statute's operative date.

Member Lazar asked if it would resolve this "gap period" if the Commission assented to the claimant's request.

Pat Hart Jorgensen, Chief Legal Counsel, replied that claimants are not typically required to follow a new statute until the operative date and that there is no authority for the Commission to grant start-up costs. She noted that some statutes authorize immediate enactment and that this statute did not include such an urgency clause. Ms. Jorgensen added that staff was not agreeing or disagreeing with whether the districts should have prepared before the operative date, rather, staff was arguing that nothing in mandates law allows for reimbursement for those costs.

Mr. Cunningham noted that there is nothing in law that precludes the Commission from approving those costs. Member Sherwood asked Ms. Shelton to comment on that statement. Ms. Shelton replied that the Commission is required to follow the California Constitution and that the court's interpretation of Article IV, section 8, have all held that statutes have no force or effect, for any reason, until the operative or effective date.

Mr. Burdick contended that claimants had asked for a provision in the Commission's regulations when they were adopted that would allow the Commission discretion over issues in the nature of interpretation. He added that this is a "quasi" judicial process. Mr. Burdick argued that, in the *Filipino Employee Surveys* claim and possibly one more case, the Commission (or Board of Control) found that local agencies needed to proceed immediately if they were to be in compliance by January 1 and were therefore reimbursed for start-up costs incurred after the enactment date.

Ms. Shelton said she believed Mr. Burdick was referring to regulation section 1183.1, which authorizes discretion only concerning reimbursable activities and not the reimbursable period.

The Chair noted Member Steinmeier's statement in the transcript on the Parameters and Guidelines hearing about needing clarification in the Legislature. Member Steinmeier agreed and added that the law should have had an urgency clause, but did not. She asked Mr. McGuire if the CHP put its warning in writing. He did not have that in his records. Member Steinmeier sympathized with the claimant's position, but could not find anything from the Legislature or in the Constitution to justify approving the request.

Mr. Burdick argued that the intent of section 1183.1 was to give the Commission discretion to make reasonable decisions. He noted that the section does not include or preclude reimbursable periods. Member Sherwood replied that the members all have some discretion, but, in his experience, the Commission has denied reimbursement of such costs in the past. He recognized that the members today could vote otherwise, but personally could not find a legal way to do so under the current situation. Member Sherwood agreed with Ms. Shelton.

Member Robeck moved for approval of staff's recommendation. With a second by Member Lazar, the motion passed unanimously.

ADOPTION OF REGULATIONS PURSUANT TO GOVERNMENT CODE  
SECTION 17527, SUBDIVISION (g).

- Item 18      Adoption of Proposed Amendments to California Code of Regulations, Title 2, Chapter 2.5 Adding Section 1183.09, As Modified on August 24, 2000, After Close of Public Comment Period - *Dismissal of Actions Postponed or Placed on Inactive Status*

Pat Hart Jorgensen, Chief Legal Counsel, presented this item. She noted that, in February 2000, the Commission initiated a rulemaking proposal to establish procedures for dismissal of a pending action, postponed or placed on inactive status at the request of a party or claimant which is not reactivated within one year from the date of the postponement or placement on inactive status.

Ms. Jorgensen explained that, on June 29, 2000, the Commission conducted a public hearing on rulemaking proposal, which coincided with the expiration of the 45-day public comment period. Based on the comments received during the public comment period, staff amended the proposed recommendation to:

- Extend the time for notice of a dismissal of the test claim from 60 days to 150 days;
- Provide that, in the case of a dismissal of a test claim, notice shall be made to all potential claimants;
- Clarify that another local agency or school district may substitute in a s a test claimant;
- Provide that notice of all dismissals shall be posted electronically; and
- Provide that postponements made by the Commission or other state agency, and postponements made pending the outcome of a similar test claim issue, either before the Commission or the courts, shall not be included in determining whether a test claim has been postponed or placed on inactive status for more than one year.

Ms. Jorgensen added that, at the August 24, 2000, hearing, the Commission further modified text. On August 25, 2000, the proposed regulations, as modified, were mailed to all commentators and interested parties. The 15-day public comment period closed on September 11, 2000, and no comments were received during this period.

Accordingly, staff recommended the Commission adopt the proposed regulatory text. Member Steinmeier moved for adoption of the regulations, as recommended by staff. With a second by Member Robeck, the motion passed unanimously.

- Item 19      Approval of Modifications After Close of Public Comment Period: Proposed Amendments to California Code of Regulations, Title 2, Chapter 2.5, Amending Sections 1181.1, 1183, 1183.05, 1183.12, 1185, 1185.01, 1185.02, 1185.2, 1188.4 of Chapter 2.5 of Division 2, Title 2 of the California Code of Regulations - (*AB 1679*)

David Scribner, Staff Counsel, introduced this item. He noted that, in February 2000, the Commission initiated a rulemaking proposal to amend several sections of its regulations. The



proposed action was necessary to interpret, implement, and make specific Statutes of 1999, Chapter 643, also known as AB 1679.

Mr. Scribner explained that, on July 27, 2000, the Commission conducted a public hearing on the rulemaking proposal, which coincided with the expiration of the 45-day public comment period. Staff agreed with some of the suggestions that were provided, as reflected in the proposed modified text presented to the Commission at last month's hearing. At this hearing, the Commission approved staff's proposed modifications, and the modified text went out for an additional 15-day public comment period, which closed on September 11, 2000.

Mr. Scribner stated that the Commission received comments from Girard & Vinson and the State Controller's Office. The comments received from Girard & Vinson raised questions concerning the Commission's process for accepting multiple test claims based on the same statute. Based on these comments, staff reviewed the proposed modification of section 1183 related to test claim filings, as well as other sections included in the rulemaking package. Mr. Scribner noted that staff proposed removal of the majority of the regulation sections from this rulemaking package to ensure that all sections that may be affected by the amendments to the Government Code by AB 1679 are adequately addressed. He added that staff would identify those sections that require modification and would submit to the Commission a request for a new order to initiate rulemaking to address these issues.

Mr. Scribner explained that staff retained the proposed modification of section 1188.4, relating to the Commission's reconsideration of prior final decisions, to ensure that the Commission has adequate time to consider future requests for reconsideration. Staff modified this section to provide that a request for reconsideration would be deemed automatically stayed for 30 days, thereby giving the Commission 60 days to take action on the request. He recommended that the Commission approve staff's proposed regulatory text, section 1188.4, as modified after the close of the public comment period, and authorize staff to make any technical, nonsubstantive edits to the proposed text resulting from the Commission's actions. Mr. Scribner added that, if the Commission approved staff's proposed modifications, the modified text of section 1188.4 would be released for an additional 15-day public comment period. Thereafter staff would prepare the final proposed text of section 1188.4 and present this text to the Commission in October for adoption.

Member Sherwood moved for approval of staff's recommendation. With a second by Member Halsey, the motion passed unanimously.

#### **EXECUTIVE DIRECTOR'S REPORT**

Paula Higashi reported the following:

- *Workload.* The workload report is included in the binders.
- *Incorrect Reduction Claims.* The *Handicapped and Disabled Students* IRC, the first to utilize a Commission Member (Beltrami) as a facilitator, is settled. The claimants and State Controller's Office reached settlement on the Removal of Chemicals IRCs, which have consequently been withdrawn.
- *October Agenda.* Ms. Higashi outlined the tentative agenda for October. She noted that the *Animal Adoptions* test claim would be on that agenda and is expected to be

controversial. Staff will try to organize the hearing to ensure the testimony is orderly and that time limits are established.

Chairperson Porini complimented staff for working through the backlog.

## **PUBLIC COMMENT**

Keith Petersen, representing Alameda County and in his capacity as Special Counsel to the Education Mandated Cost Network, came forward for public comment. He noted that, at the July hearing, the Commission adopted a decision that denied reimbursement for the *Gann Limit Calculation* test claim. According to regulations, Mr. Petersen filed a request for reconsideration on August 9, 2000. On August 30, 2000, he received a letter from Commission staff indicating that the 30-day period for which the Commission had time to act had passed. He added that no action had been taken, therefore, there was no jurisdiction remaining over the request for reconsideration. Mr. Petersen was asking today for an explanation of what happened during that period so this would not happen again.

Pat Hart Jorgensen, Chief Legal Counsel, replied that the rulemaking package presented today was in response to that situation. Under AB 1639, the provisions for consideration were changed. It provided that a request for reconsideration shall be submitted with the Commission within 30 days after the decision has been rendered. Within that code section, it provides that, if during that time period the Commission grants an extension of time, it can be extended up to 60 days. The legislation also provides that, if there is no action taken within that period, the petition and the request for reconsideration shall be considered denied.

Ms. Jorgensen noted that Commission staff was not prepared for this situation and apologized for what had happened. She explained that staff was prepared to answer the letter and noticed that the day had passed. Staff wanted to go forward with the proposed amendment to the regulations and requested permission to deem a request for reconsideration stayed until 60 days in order to give the opportunity to put it on the agenda. Ms. Jorgensen added that staff was also internally changing its mail-receipt process in response to the situation.

Chairperson Porini asked Mr. Petersen about today's proposed regulation change. He replied that he did not have a comment on that change, which is merely incidental to the issue today, which was that the claimant requested a reconsideration. To his understanding, no action was taken where action was required within 30 days. He added that, apologies notwithstanding, outside of government, that is generally considered malpractice and he would have a civil remedy, which he does not have in this case. He did not know if the Commission could fix this matter, but he noted that he had been in communication with staff via e-mail and phone at least three times during that period, so they had known the issue was before them.

Member Steinmeier acknowledged that staff did not deliberately fail to take action in order to let the matter die and that Mr. Petersen had done everything he was supposed to do. She moved to put the matter on the October agenda to discuss the request for reconsideration in greater detail, since it was not noticed for discussion today. Ms. Higashi noted that a motion was not necessary. Member Robeck asked if Member Steinmeier intended for the Commission to discuss the merits of the case. She replied that she did not, rather, she intended for the Commission to discuss the request at this time.

Member Robeck asked staff to brief the Commission on their options as part of that process.

Allan Burdick also came forward for public comment. He requested that the Commission get involved in the legislative process and offer suggestions on how to improve the Commission's process. Member Robeck replied that this item was a public session item and not an executive session item. He noted that there were two issues involved: 1) could the Commissioners together support any piece of legislation with reference to their respective bosses, and 2) what would they do in terms of staffing that kind of issue and would it be inappropriate or an inordinate burden on existing staff resources to make manifest any support or opposition the Commission expressed. Member Robeck suggested the item be put on the agenda for next month.

**CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526.**

**PENDING LITIGATION**

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.*, Case Number SCV52190, in the Superior Court of the State of California, County of Los Angeles.
2. *County of Sonoma v. Commission on State Mandates, et al.*, Case Number A089524, in the Appellate Court of California, First Appellate District, Division 1.
3. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number GIC 737638, in the Superior Court of the State of California, County of San Diego.
4. *Long Beach Unified School District v. Commission on State Mandates*, Case Number BS061159, in the Superior Court of the State of California, County of Los Angeles.
5. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
6. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number 00CS00866, in the Superior Court of the State of California, County of Sacramento.
7. *City of El Monte et al. v. Commission on State Mandates*, Petition for Review pending in the Supreme Court [Case Number 3 Civil C025631, in the Appellate Court of California, Third Appellate District and Sacramento County No. 95CS02704].

8. *City of San Diego v. Commission on State Mandates, et al.* Case Number GIC 751187, in the Superior Court of the State of California, County of San Diego.
9. *County of Los Angeles v. Commission on State Mandates, et al.* Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).).

#### PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from Personnel Sub-Committee.

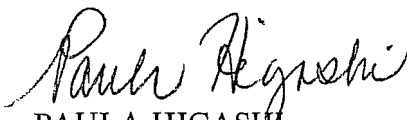
Hearing no further comments, the Chair adjourned into closed executive session at 12:23 p.m. pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from Legal Counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code section 11126, subdivision (a), and section 17527, to confer on personnel matters listed on the published notice and agenda.

#### REPORT FROM CLOSED EXECUTIVE SESSION

Chairperson Porini reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from Legal Counsel for consideration and action, as necessary and appropriate, upon pending litigation listed on the published notice and agenda; and Government Code section 11126, subdivision (a), and section 17527, to confer on personnel matters listed on the published notice and agenda.

#### ADJOURNMENT

Hearing no further business, the Chair adjourned the meeting at 1:08 p.m.

  
PAULA HIGASHI  
Executive Director

f:/meetings/minutes/2000/092800

**COMMISSION ON STATE MANDATES**

960 NINTH STREET, SUITE 300

SACRAMENTO, CA 95614

PHONE: (916) 323-3562

FAX: (916) 445-0278

E-mail: csmInfo@csm.ca.gov



October 2, 2000

Mr. Paige Vorhies, Chief  
Bureau of Payments  
State Controller's Office  
3301 C Street, Suite 500  
Sacramento, California 95816

*And Interested Parties and Affected State Agencies*

Re: Adoption of Amendment to Parameters and Guidelines  
Mandate Reimbursement Process  
CSM-4485

Dear Mr. Vorhies:

On September 28, 2000, the Commission on State Mandates adopted the amended Parameters and Guidelines for this test claim.

A copy of the final Parameters and Guidelines, as amended, is enclosed. If you have any questions please contact Piper Rodrian at (916) 323-5869.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Paula Higashi'.

PAULA HIGASHI

Executive Director

Enclosure

f:\mandates\csm4000\4485\2000\pgaadopttr

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE AMENDMENT TO PARAMETERS  
AND GUIDELINES ON:

Statutes of 1975, Chapter 486; Statutes of 1984, Chapter 1459; Statutes of 1995, Chapter 303 (Budget Act of 1995); Statutes of 1996, Chapter 162 (Budget Act of 1996); Statutes of 1997, Chapter 282 (Budget Act of 1997); Statutes of 1998, Chapter 324 (Budget Act of 1998); Statutes of 1999, Chapter 50 (Budget Act of 1999), Statutes of 2000, Chapter 52 (Budget Act of 2000).

NO. CSM-4485-00

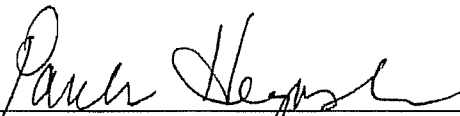
*Mandate Reimbursement Process*

ADOPTION OF AMENDMENT TO  
PARAMETERS AND GUIDELINES  
PURSUANT TO GOVERNMENT CODE  
SECTION 17557 AND TITLE 2,  
CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 1183.2 AND 1185.3.

*(Adopted on September 28, 2000)*

**PARAMETERS AND GUIDELINES AMENDMENT**

On September 28, 2000, the Commission on State Mandates adopted the attached Amended Parameters and Guidelines. This decision shall become effective on October 2, 2000.

  
\_\_\_\_\_  
PAULA HIGASHI, Executive Director



Adopted: September 28, 2000  
File: CSM-4485-00 (7<sup>th</sup> Amendment)  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
f:\mandates\csm4000\4485\pga092800  
Document Date: July 21, 2000

## PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)

### *Mandate Reimbursement Process*

[For fiscal years 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, and 2000-01 only, these parameters and guidelines are amended, pursuant to the requirements of (1) provision 11 of Item 0840-001-001 and provision 1 of Item 8885-001-001 of the Budget Act of 1995, (2) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1996, (3) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1997, (4) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1998, (5) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1999, (6) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 2000 to include Appendix A.]

### **I. Summary of Mandate**

Chapter 486, Statutes of 1975, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, Chapter 486/75 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Chapter 1459, Statutes of 1984, created the Commission on State Mandates, which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by Section 6 of Article XIII B of the California Constitution for state mandates under the Government Code, see section 17552.



Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.

## **II. Commission on State Mandates Decision**

On March 27, 1986, the Commission on State Mandates determined that local agencies and school districts incurred "costs mandated by the state" as a result of Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984. Specifically, the commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. Eligible Claimants**

All local agencies and school districts incurring increased costs as a result of this mandate are eligible to claim reimbursement of those costs.

## **IV. Period of Claim**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed,

## **V. Reimbursable Costs**

### **A. Scope of Mandate**

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments (counties, cities, school districts, special districts, etc.) cannot be made financially whole unless all state-mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and

reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable.

#### B. Reimbursable Activities -- Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

#### C. Reimbursable Activities -- Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

### VI. Claim Preparation

#### A. Supporting Data

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state-mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

#### B. Salaries and Benefits

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

### C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate.

### D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

### E. Training

#### 1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

#### 2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

### F. Indirect Costs

#### 1. Local Agencies

Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.

Local agencies must claim indirect costs based on the following alternatives: Compensation for indirect costs is eligible for reimbursement using the procedure provided in the OMB Circular A-87. Claimants have the option of using ten (10) percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds ten (10) percent. If more than one department claims indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB Circular A-87 (or subsequent replacement). An ICRP must be submitted with the claim when the indirect cost rate exceeds ten (10) percent.

#### 2. School Districts

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

4. Community College Districts

Community College Districts must use one of the following three alternatives:

- a. An ICRP based on OMB Circular A-21 ;
- b. The State Controller's FAM-29C which uses the CCFS-3 11; or
- c. Seven percent (7 %).

**VII. Offsetting Savings and Other Reimbursement**

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claims. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

**VIII. Required Certification**

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TELEPHONE NUMBER

(Continue to Appendix A)

## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, and 2000-01<sup>1</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for

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<sup>1</sup> The limitation added by (1) the Budget Act of 1995, Chapter 303, Statutes of 1995, in Item 0840-001-001, Provision 11, and in Item 8885-001-001, Provision 1, (2) the Budget Act of 1996, Chapter 162, Statutes of 1996, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, Chapter 282, Statutes of 1997, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, Chapter 324, Statutes of 1998, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, Chapter 50, Statutes of 1999, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, Chapter 52, Statutes of 2000, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 350, Sacramento, California 95 8 14.

October 2, 2000, I served the:

Adoption of Amendment to Parameters and Guidelines  
*Mandate Reimbursement Process*  
CSM-4485

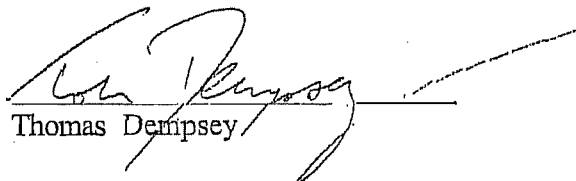
by placing a true copy thereof in an envelope addressed to:

Mr. Paige Vorhies, Chief  
Bureau of Payments  
State Controller's Office  
3301 C Street, Suite 500  
Sacramento, California 958 16

*State Agencies and Interested Parties (See attached mailing list);*

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 2, 2000, at Sacramento, California.

  
Thomas Dempsey

# Commission on State Mandates

List Date: 07/28/2000

Mailing Information

## Mailing List

Claim Number

4485

Claimant

Mandate Reimbursement Process - P&G's

Subject

Chapters 486175; 1459184; 303195; 162196; 282197; 324198

Issue

Mandate Reimbursement Process

Dr. Carol Berg, Ph. D,  
Education Mandated Cost Network

1121 L Street Suite 1060  
Sacramento CA 95814

Tel: (916) 446-7517  
FAX: (916) 446-2011

Mr. Allan Burdick,  
DMG-MAXIMUS

4320 Auburn Blvd. Suite 2000  
Sacramento CA 95841

Tel: (916) 485-8102  
FAX: (916) 485-0111

Mr. Peter Carton,  
Schools Legal Service

P O Box 2445  
Bakersfield CA 93303-2445

Tel: (805) 636-4830  
FAX: (805) 636-4843

Ms. Annette Chinn,  
Cost Recovery Systems

17.50 Creekside Oaks Drive, Suite 290  
Sacramento CA 95833-3640

Tel: (916) 939-7901  
FAX: (916) 939-7801

Mr. Jack Clarke, Jr.,  
Best, Best & Krieger

3750 University Avenue PO Box 1028  
Riverside CA 92502-1028

Tel: (909) 686-1450  
FAX: (909) 686-3083



Claim Number

4485

Claimant

Mandate Reimbursement Process • P&G's

**Subject**

Chapters 486/75; 1459184; 303/95; 162196; 282197; 324198

**Issue**

Mandate Reimbursement Process

Mr. Jim Cunningham, Leg. Mandate Spclst.  
San Diego City Schools

4100 Normal Street Room 3159  
San Diego CA 92103-2682

Tel: (619) 725-7565  
FAX: (619) 725-7580

Mr. Paul Dauer,  
Dauer & Thompson

3455 American River Drive Suite C  
Sacramento CA 95864

Tel: (916) 974-3400  
FAX (916) 974-3405

Mr. William A. Doyle, Mandated Cost Administrator  
San Jose Unified School District

1153 El Prado Drive  
San Jose CA 95120

Tel: (408) 997-2500  
FAX: (408) 997-3171

Ms. Marcia C. Faulkner, Manager, Reimbursable Projects  
County of San Bernadino  
Office of the Auditor/Controller  
222 W. Hospitality Lane, 4th Floor  
San Bernardino CA 92415-0018

Tel: (909) 386-8850  
FAX (909) 386-8830

Mr. Leslie Hobson, Senior Administrative Analyst  
County of Placer

175 Fulweiler Ave.  
Auburn CA 95603

Tel: (530) 889-4026  
FAX: (530) 889-4023

Mr. Leonard Kaye, Esq.,  
County of Los Angeles  
Auditor-Controller's Office  
500 W. Temple Street, Room 603  
Los Angeles CA 90012

Tel: (213) 974-8564  
FAX: (213) 617-8106

## subject

Chapters 486/75; 1459/84; 303/95; 162/96; 282197; 324/98

## ISSUE

Mandate Reimbursement Process

Mr. Steve Keil,  
California State Association of Counties

1100 K Street Suite 101  
Sacramento CA 95814-3941

Tel: (916) 327-7523  
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Mr. James Lombard (A-15), Principal Analyst  
Department of Finance

915 L Street  
Sacramento CA 95814

Tel: (916) 445-8913  
FAX: (916) 327-0225

Ms. Diana K. McDonough,  
Lozano, Smith, Smith, Woliver & Behrens

1010 B Street Suite 200  
San Rafael CA 94901

Tel: (415) 459-3008  
FAX: (415) 456-3826

Mr. Paul Minney,  
Girard & Vinson

1676 N. California Blvd. Suite 450  
Walnut Creek CA 94596

Tel: (925) 746-7660  
FAX: (925) 935-7995

Mr. Joseph D. Mullender, Jr.,  
Attorney at Law

89 Rivo Alto Canal  
Long Beach CA 90803

Tel: (562) 439-6376  
FAX: (626) 962-7102

Mr. Andy Nichols,  
Vavrinek Trine Day & Co., LLP

12150 Tributary Point Drive, Suite 150  
Gold River CA 95670

Tel: (916) 351-1050  
FAX: (916) 351-1020

Claim Number

4485

Claimant

Mandate Reimbursement Process - P&G's

Subject

Chapters 486/75; 1459/84; 303195; 162/96; 282/97; 324/98

Iss

Mandate Reimbursement Process

Ms. Maloney (Malley Principal Fiscal & Policy Analyst (B-29)  
Legislative Analysts' Office

925 L Street Suite 1000  
Sacramento CA 95814

Tel: (916) 445-6442  
FAX: (916) 324-4281

Mr. Keith B. Petersen, President  
Sixten & Associates

5252 La Jolla Avenue Suite 807  
San Diego CA 921 17

Tel: (619) 514-8605  
FAX: (619) 514-8645

Mr. William D. Ross.  
Law Office of William D. Ross  
A Professional Corp.  
520 South Grand Ave. Suite 300  
Los Angeles CA 90071-2610

Tel: (213) 892-1592  
FAX: (213) 892-1519

Ms. Nancy Shaffer, CTA Representative  
California Teachers Assoc.

191 Deerglen Circle  
Vacaville CA 95687-7414

Tel: (707) 446-6303  
FAX (650) 552-5007

Mr. Mark Sigman, Accountant II  
Riverside Co. Sheriffs Office

4095 Lemon Street P O Box 5 12  
Riverside Ca 92502

Tel: (909) 955-2709  
FAX: (909) 955-2428

Interested Person

Mr. Steve Smith, CIO (Interested Person)  
Mandated Cost Systems

2275 Watt Avenue Suite C  
Sacramento CA 95825

Tel: (916) 487-4435  
F A X (916) 487-9662

Claim Number

448.5

Claimant

Mandate Reimbursement Process - P&G's

Subject

Chapters 486/75; 1459/84; 3031'95; 162/96; 282197; 324/98

Issue

Mandate Reimbursement Process

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Jim Spano,  
State Controller's Office  
Division of Audits (B-8)  
300 Capitol Mall, Suite 18 P.O. Box 942850      Tel: (916) 323-5849  
Sacramento CA 95814      FAX: (916) 324-7223

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Mr. Paige Vorhies      (B-R), Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street Suite 500      Tel: (916) 445-8756  
Sacramento CA 95816      FAX: (916) 323-4807

---

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Mr. James Webb, SB 90 Coordinator  
County of Santa Clara  
Controller • Treasurer Department  
70 West Hedding Street East Wing 2nd Floor      Tel: (408) 299-2541  
San Jose CA 95110      FAX: (408) 289-8629

---

---

Mr. David Wellhouse,  
Wellhouse & Associates  
9175 Kiefer Blvd Suite 121      Tel: (916) 368-9244  
Sacramento CA 95826      FAX: (916) 368-5723

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COMMISSION ON STATE MANDATES

NOTICE AND AGENDA <sup>1</sup>

State Capitol, Room 126  
Sacramento, California

October 25, 2001

9:30 A.M. - PUBLIC SESSION

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES

Item 1      October 18, 2001

III. PROPOSED CONSENT CALENDAR (action)

*Note: If there are no objections to any of the following action items, the Executive Director will include it on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar.*

IV. HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

Note: Witnesses will be sworn in en masse before consideration of Items 2-6.

A. TEST CLAIMS

Item 2      *Annual Parent Notification 1998 and 1999 Statutes, 99-TC-09; 00-TC-12*  
Education Code Sections 48980 and 49063  
San Juan Unified School District and San Jose Unified School District,  
Claimants  
Statutes of 1998, Chapters 846 and 1031  
Statutes of 1999-2000, First Extraordinary Session, Chapter 1

Item 3      *Eastview Optional Attendance Area, CSM 99-TC-01*  
Palos Verdes Peninsula Unified School District, Claimant  
Statutes of 1998, Chapter 868

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<sup>1</sup> <http://www.csm.ca.gov>

B. ADOPTION OF PROPOSED STATEMENT OF DECISION ON UNDISPUTED TEST CLAIM

- Item 4      *Presidential Primaries 2000*, 99-TC-04  
County of Tuolumne, Claimant  
Elections Code Sections 15151 and 15375  
Statutes of 1999, Chapter 18

C. ADOPTION OF PROPOSED STATEMENTS OF DECISION TO DISMISS WITHDRAWN TEST CLAIMS

- Item 5      *Special Education: Preschool Transportation Programs For Ages 3-5 Not Requiring Intensive Services* - CSM 3986  
North Region SELPA (Alameda Unified School District, Administrative Unit), Claimant  
Education Code Sections 56441.14 and 56448  
Statutes of 1987, Chapter 311; Statutes of 1990, Chapter 184  
Statutes of 1992, Chapter 1061

- Item 6      *Special Education for Ages 3, 4, 5, and 18, 19, 20, and 21* - CSM 3986  
Long Beach Unified School District, Claimant  
Education Code Section 56026, as added and amended by Statutes of 1980, Chapter 797 and 1353; Statutes of 1987, Chapter 311; Statutes of 1988, Chapter 35; Statutes of 1991, Chapter 223; Statutes of 1992, Chapters 1360 and 1361; Statutes of 1993, Chapter 1296; Statutes of 1995, Chapter 530

V. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES

- Item 7      *Standardized Testing and Reporting*, 97-TC-23  
San Diego Unified School District, Claimant  
Education Code Sections 60607, et al  
Statutes of 1997, Chapter 828  
Title 5, California Code of Regulations,  
Sections 850-874

B. ADOPTION OF AMENDMENT TO PARAMETERS AND GUIDELINES

- Item 8      *Mandate Reimbursement Process* - CSM-4485  
Statutes of 1975, Chapter 486; Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995); Statutes of 1996, Chapter 162 (Budget Act of 1996); Statutes of 1997, Chapter 282 (Budget Act of 1997); Statutes of 1998, Chapter 324 (Budget Act of 1998); Statutes of 1999, Chapter 50 (Budget Act of 1999); Statutes of 2000, Chapter 52 (Budget Act of 2000); Statutes of 2001, Chapter 106 (Budget Act of 2001)



VI. EXECUTIVE DIRECTOR'S REPORT (info)

Item 9 Workload, Legislation, Next Agenda

VII. PUBLIC COMMENT

VIII. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526. (Closed Executive Session may begin at this time or may begin earlier on this day and reconvene at the end of the meeting.)

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.*, Case Number B140704 in the Appellate Court of California, Second Appellate District, Division 2.
2. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number D0 38027, in the Appellate Court of California, Fourth Appellate District, Division 1.
3. *Department of Finance v. Commission on State Mandates, et al.*, Case Number 00CS01446, in the Superior Court of the State of California, County of Sacramento.
4. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
5. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number C037645, in the Court of Appeal, Third Appellate District.
6. *City of San Diego v. Commission on State Mandates, et al.* Case Number GIC751187, in the Superior Court of the State of California, County of San Diego.
7. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.
8. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number BS06911, in the Superior Court of the State of California, County of Los Angeles.
9. *County of San Bernardino v Commission on State Mandates of the State of California et al.*, Case Number SCVSS72444, in the Superior Court of the State of California, County of San Bernardino.
10. *County of San Diego v. Commission on State Mandates, et al.*, Case Number GIC762953, in the Superior Court of the State of California, County of San Diego.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

#### B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

#### IX. REPORT FROM CLOSED EXECUTIVE SESSION

#### ADJOURNMENT

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For information, contact Paula Higashi, Executive Director, at (916) 323-3562.

## ITEM 8

### Amendment To Parameters And Guidelines

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)  
Statutes of 2001, Chapter 106 (Budget Act of 2001)

### *Mandate Reimbursement Process*

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#### EXECUTIVE SUMMARY

The *Mandate Reimbursement Process* parameters and guidelines allow local agencies and school districts to be reimbursed for costs incurred in preparing and presenting successful test claims and submitting reimbursement claims to the State Controller. Incorrect reduction claims are considered an element of reimbursement claims. The original parameters and guidelines were adopted on November 20, 1986.

Since 1995, the State Budget Act has included supplemental language in the support appropriations for the State Controller's Office and the Commission on State Mandates. This language addresses local reimbursement for the costs of contracting with an independent contractor. The Commission adopted Appendix A to comply with the supplemental language.

Each year, the Commission has amended these parameters and guidelines and Appendix A to reflect this language. However, other than the annual Budget Act language, the amendment does not include any revisions enacted by subsequent legislation. Subsequent statutory revisions must be submitted as new test claims, and approved by the Commission before being included in parameters and guidelines.<sup>1</sup>

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1. For example, Statutes of 1999, chapter 643 (AB 1679) added new provisions to allow the Commission to accept more than one test claim on the same statute or executive order. These new provisions are not currently reimbursable under the *Mandates Reimbursement* program.

The Budget Act of 2001 states:

"The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district."<sup>2</sup>

### **Written Comments**

Staff noted its intention to make technical changes to the 2000 parameters and guidelines to incorporate the Budget Act of 2001 once passed, and mailed the parameters and guidelines to affected state agencies and interested parties for review and comment on July 9, 2001. Comments were due on August 24, 2001. As of October 10, 2001, no comments had been received.

Subsequent to mailing out the proposal, staff made the technical changes noted above and updated the language regarding indirect costs for local agencies to conform to language in recently adopted parameters and guidelines.

### **Staff Analysis**

Other than those described above, staff made no further changes to the parameters and guidelines for this claim.

### **Staff Recommendation**

Staff recommends the Commission adopt the proposed amended parameters and guidelines (see Exhibit A).

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<sup>2</sup> Statutes of 1999, Chapter 50, p. 654, Item 8885-001-0001, Provision 1.

Hearing: October 25, 2001  
File: CSM-4485-01 (8<sup>th</sup> Amendment)  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
Seventh Amendment Adopted: September 28, 2000  
f:\mandates\csm4000\4485\pga092701

## PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)  
Statutes of 2001, Chapter 106 (Budget Act of 2001)

### *Mandate Reimbursement Process*

[For fiscal years 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, and 2001-02 only, these parameters and guidelines are amended, pursuant to the requirements of: (1) provision 11 of Item 0840-001-001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1995, (2) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1996, (3) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1997, (4) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1998, (5) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1999, (6) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 2000, (7) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 2001, to include Appendix A.]

### **I. Summary of Mandate**

Chapter 486, Statutes of 1975, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, Chapter 486/75 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Chapter 1459, Statutes of 1984, created the Commission on State Mandates, which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by article XIII B, section 6 of the California Constitution for state mandates under the Government Code, section 17552.

Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.

## **II. Commission on State Mandates Decision**

On March 27, 1986, the Commission on State Mandates determined that local agencies and school districts incurred "costs mandated by the state" as a result of Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984. Specifically, the commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. Eligible Claimants**

All local agencies and school districts incurring increased costs as a result of this mandate are eligible to claim reimbursement of those costs.

## **IV. Period of Claim**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed.

## **V. Reimbursable Costs**

### **A. Scope of Mandate**

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments (counties, cities, school districts, special districts, etc.) cannot be made financially whole unless all state-mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable.

### **B. Reimbursable Activities -- Test Claims**

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

### **C. Reimbursable Activities -- Reimbursement Claims**

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

## **VI. Claim Preparation**

### **A. Supporting Data**

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state-mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

## B. Salaries and Benefits

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

## C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate.

## D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

## E. Training

### 1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

### 2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

## F. Indirect Costs

### 1. Local Agencies

Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.



Local agencies have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.

~~Indirect costs are defined as costs which are incurred for a common or joint purpose, benefiting more than one program and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of central government services distributed to other departments based on a systematic and rational basis through a cost allocation plan.~~

~~Local agencies must claim indirect costs based on the following alternatives: Compensation for indirect costs is eligible for reimbursement using the procedure provided in the OMB Circular A-87. Claimants have the option of using ten (10) percent of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) for the department if the indirect cost rate claimed exceeds ten (10) percent. If more than one department claims indirect costs for the mandated program, each department must have its own ICRP prepared in accordance with OMB Circular A-87 (or subsequent replacement). An ICRP must be submitted with the claim when the indirect cost rate exceeds ten (10) percent.~~

## 2. School Districts

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## 3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## 4. Community College Districts

Community College Districts must use one of the following three alternatives:

- a. An ICRP based on OMB Circular A-21;
- b. The State Controller's FAM-29C which uses the CCFS-311; or
- c. Seven percent (7%).

## VII. Offsetting Savings and Other Reimbursement

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claims. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc.; shall be identified and deducted from this claim.

**VIII. Required Certification**

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

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SIGNATURE OF AUTHORIZED REPRESENTATIVE

---

DATE

---

TITLE

---

TELEPHONE NUMBER

(Continue to Appendix A)

## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, and 2001-02<sup>1</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (a) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

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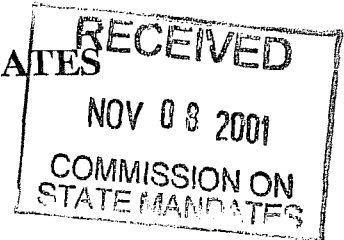
<sup>1</sup> The limitation added by (1) the Budget Act of 1995, Chapter 303, Statutes of 1995, in Item 0840-001-001, Provision 11, and in Item 8885-001-001, Provision 1, (2) the Budget Act of 1996, Chapter 162, Statutes of 1996, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, Chapter 282, Statutes of 1997, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, Chapter 324, Statutes of 1998, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, Chapter 50, Statutes of 1999, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, Chapter 52, Statutes of 2000, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (7) the Budget Act of 2001, Chapter 106, Statutes of 2001, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

ORIGINAL

PUBLIC HEARING

COMMISSION ON STATE MANDATES



--oOo--

TIME: 9:41 a.m.

DATE: Thursday, October 25, 2001

PLACE: Commission on State Mandates  
State Capitol, Room 126  
Sacramento, California

--oOo--

REPORTER'S TRANSCRIPT OF PROCEEDINGS

--oOo--

Reported By:

DANIEL P. FELDHAUS  
CSR #6949, RDR, CRR

A P P E A R A N C E S

COMMISSION ON STATE MANDATES

ANNETTE PORINI, Chair  
Representative for B. TIMOTHY GAGE, Director  
State Department of Finance

JOHN HARRIGAN  
Representative for KATHLEEN CONNELL  
State Controller

HEATHER A. HALSEY  
Representative for STEVEN A. NISSEN, Director  
State Office of Planning and Research

JOHN LAZAR  
City Council Member  
Turlock City Council

WILLIAM SHERWOOD, Vice Chair  
Representative for PHILIP ANGELIDES  
State Treasurer

JOANN E. STEINMEIER  
School Board Member  
Arcadia Unified School District

--oOo--

COMMISSION STAFF

PAULA HIGASHI, Executive Director

ELLEN FISHMAN, Staff Counsel

CAMILLE SHELTON, Staff Counsel

KATHERINE TOKARSKI, Staff Counsel

--oOo--

I N D E X

Proceedings

Page

IV. Hearings and Decisions, Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7

C. Adoption of Proposed Statement of Decisions to Dismiss Withdrawn Test Claims

Item 5 Special Education: Preschool  
Transportation Programs for Ages 3-5  
Not Requiring Intensive Services  
CSM 3986  
North Region SELPA (Alameda Unified  
School District, Administrative  
Unit), Claimant  
County of Tuolumne, Claimant  
(Consent Calendar Item)

Item 6 Special Education for Ages 3, 4, 5,  
and 18, 19, 20, and 21  
CSM 3986  
Long Beach Unified School District,  
Claimant  
(Consent Calendar Item)

V. Informational Hearing Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 8

A. Adoption of Proposed Parameters and Guidelines

Item 7 Standardized Testing and Reporting  
97-TC-23  
San Diego Unified School District,  
Claimant . . . . .  
(This item was postponed.)

B. Adoption of Amendment to Parameters and Guidelines

Item 8 Mandate Reimbursement Process  
CSM 4485  
(Consent Calendar Item)

1 Starkey. He is the newly-appointed attorney and chief  
2 legal counsel for the Commission on State Mandates. And  
3 Paul hasn't started yet with us. That will be very soon.  
4 And he is here to observe the hearing.

5 Paul, do you want to stand up?

6 MR. STARKEY: I just want to say "good morning"  
7 and to thank the Commission and to say I'm very eager to  
8 get started. Thank you very much.

9 CHAIR PORINI: We look forward to having you  
10 with us.

11 MR. STARKEY: Thank you.

12 CHAIR PORINI: Okay, that takes us to our first  
13 item of business, the minutes.

14 MS. HIGASHI: The minutes of October 18th,  
15 Item 1.

16 MEMBER HARRIGAN: I'll move adoption.

17 MEMBER HALSEY: Second.

18 VICE CHAIR SHERWOOD: Second.

19 CHAIR PORINI: We have a motion and a second.  
20 All those in favor indicate with "aye."

21 (A chorus of "ayes" was heard.)

22 CHAIR PORINI: Opposed?

23 Minutes carry.

24 MS. HIGASHI: Next, we have the proposed consent  
25 calendar. The proposed consent calendar consists of



1 Items 5 and 6, which is the adoption of Proposed  
2 Statements of Decision to dismiss withdrawn test  
3 claims -- I'd just like to note that these are two test  
4 claims related to the special education case -- also,  
5 adoption of Item 7, which is Proposed Parameters and  
6 Guidelines -- I mean, Item 8, excuse me, for the Mandate  
7 Reimbursement Process.

8 CHAIR PORINI: All right, so the proposed  
9 consent calendar consists of Items 5, 6 and 8.

10 MEMBER STEINMEIER: Move approval.

11 VICE CHAIR SHERWOOD: Second.

12 CHAIR PORINI: All right, any discussion?  
13 All those in favor, indicate with "aye."

14 (A chorus of "ayes" was heard.)

15 CHAIR PORINI: Opposed?

16 Consent calendar carries.

17 MS. HIGASHI: The first item for hearing is a  
18 test claim on Annual Parent Notification. This item will  
19 be presented by Katherine Tokarski.

20 MS. TOKARSKI: Good morning.

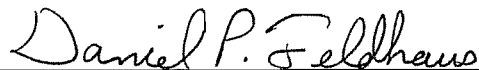
21 Claimants, San Juan and San Jose School  
22 Districts, each submitted claims alleging reimbursable  
23 costs mandated by the state for amendments to the  
24 Education Code, directing school districts to provide  
25 additional annual parent notifications. The two test

REPORTER'S CERTIFICATE

I hereby certify that the foregoing proceedings were reported by me at the time and place therein named; that the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer.

I further certify that I am not of counsel or attorney for any of the parties to said proceedings, nor in any way interested in the outcome of the cause named in said matter.

In witness whereof, I have hereunto set my hand this seventh day of November 2001.



DANIEL P. FELDHAUS  
CSR #6949, RDR, CRR

## COMMISSION ON STATE MANDATES

State Capitol, Room 126

Sacramento, California

October 25, 2001

Present: Chairperson Annette Porini  
Representative of the Director of the Department of Finance  
Member William Sherwood  
Representative of the State Treasurer  
Member Heather Halsey  
Representative of the Director of the Office of Planning and Research  
Member John Harrigan  
Representative of the State Controller  
Member Joann Steinmeier  
School Board Member  
Member John Lazar  
City Council Member  
Vacant: Public Member

### CALL TO ORDER AND ROLL CALL

Chairperson Porini called the meeting to order at 9:41 a.m. Paula Higashi, Executive Director to the Commission, introduced Paul Starkey, the Commission's new Chief Legal Counsel.

### APPROVAL OF MINUTES

Item 1      October 18, 2001

Upon motion by Member Harrigan and second by Member Sherwood, the minutes were unanimously adopted.

### PROPOSED CONSENT CALENDAR

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7

#### PROPOSED STATEMENTS OF DECISION TO DISMISS WITHDRAWN TEST CLAIMS

Item 5      *Special Education: Preschool Transportation Programs For Ages 3-5 Not  
Requiring Intensive Services - CSM 3986*  
North Region SELPA (Alameda Unified School District, Administrative  
Unit), Claimant  
Education Code Sections 56441.14 and 56448  
Statutes of 1987, Chapter 311; Statutes of 1990, Chapter 184  
Statutes of 1992, Chapter 1061

- Item 6      *Special Education for Ages 3, 4, 5, and 18, 19, 20, and 21* – CSM 3986  
Long Beach Unified School District, Claimant  
Education Code Section 56026, as added and amended by Statutes of  
1980, Chapter 797 and 1353; Statutes of 1987, Chapter 311; Statutes of  
1988, Chapter 35; Statutes of 1991, Chapter 223; Statutes of 1992,  
Chapters 1360 and 1361; Statutes of 1993, Chapter 1296; Statutes of  
1995, Chapter 530

**INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8**

**ADOPTION OF AMENDMENT TO PARAMETERS AND GUIDELINES**

- Item 8      *Mandate Reimbursement Process* - CSM-4485  
Statutes of 1975, Chapter 486; Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995); Statutes of 1996,  
Chapter 162 (Budget Act of 1996); Statutes of 1997, Chapter 282 (Budget  
Act of 1997); Statutes of 1998, Chapter 324 (Budget Act of 1998); Statutes  
of 1999, Chapter 50 (Budget Act of 1999); Statutes of 2000, Chapter 52  
(Budget Act of 2000); Statutes of 2001, Chapter 106 (Budget Act of 2001)

Member Steinmeier moved for adoption of the consent calendar. With a second by Member Sherwood, the consent calendar was unanimously adopted.

**HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7**

**TEST CLAIMS**

- Item 2      *Annual Parent Notification 1998 and 1999 Statutes*, 99-TC-09; 00-TC-12  
Education Code Sections 48980 and 49063  
San Juan Unified School District and San Jose Unified School District,  
Claimants  
Statutes of 1998, Chapters 846 and 1031  
Statutes of 1999-2000, First Extraordinary Session, Chapter 1

Katherine Tokarski, Graduate Legal Assistant, introduced this item. She noted that the claimants, San Juan and San Jose Unified School Districts, each submitted claims alleging reimbursable costs mandated by the state for amendments to the Education Code, directing school districts to provide additional annual parent notifications. The two claims were consolidated for hearing.

Ms. Tokarski stated that the test claim legislation adds several items to the annual parent notification activities when compared to prior law, requiring school districts to incur increased costs relating to copying and mailing. She noted that staff did not find evidence to support the Department of Finance's assertion that the new notification regarding the High School Exit Exam is funded through the annual Budget Act. She explained that appropriations regarding the High School Exit Exam relate to the development and administration of the exam itself, not annual parent notification.

Furthermore, Ms. Tokarski disagreed with the Department of Finance's argument that the new notification regarding advanced placement exam fees concerns a voluntary grant program, and thus, is not reimbursable. She explained that all school districts are statutorily required to provide information about the advanced placement exam fee subsidy and their annual notification to the parents or guardians of all their students, whether or not the school district utilizes the program. Therefore, staff concluded that the test claim legislation requires new annual parent notification activities resulting in a reimbursable state mandate.

Parties were represented as follows: Keith Petersen, representing the San Juan Unified School District and San Jose Unified School District; Carol Berg, representing the Education Mandated Cost Network; and Mohammad Wardak and Mike Wilkening, representing the Department of Finance.

Mr. Petersen concurred with the staff analysis. He added that it was consistent with the prior two test claims.

Dr. Berg supported the staff recommendation.

Mr. Wilkening noted that the Department of Finance now concurs with staff's recommendation regarding the notice of exam fees for voluntary programs. However, regarding notification for the High School Exit Exam, he maintained that there is funding in the annual Budget Act to cover the costs of the notification.

Member Steinmeier asked Mr. Petersen for technical clarification on small district claims. Mr. Petersen provided that clarification.

Member Steinmeier made a motion to approve the staff analysis. With a second by Member Lazar, the motion carried unanimously.

Item 3      *Eastview Optional Attendance Area*, CSM 99-TC-01  
Palos Verdes Peninsula Unified School District, Claimant  
Statutes of 1998, Chapter 868

Item 3 was postponed at the request of the claimant.

#### ADOPTION OF PROPOSED STATEMENT OF DECISION ON UNDISPUTED TEST CLAIM

Item 4      *Presidential Primaries 2000*, 99-TC-04  
County of Tuolumne, Claimant  
Elections Code Sections 15151 and 15375  
Statutes of 1999, Chapter 18

Ellen Fishman, Commission Counsel, introduced this item. She noted that the test claim legislation relates to the manner in which presidential primary votes are counted and transmitted to the Secretary of State. She added that the test claim legislation requires local election officials to transmit both semi-final and final election results for presidential primaries in two separate tallies to the Secretary of State: First, the total number of votes each candidate receives; and second, the number of votes each candidate receives from registered voters of each political party and from the "declines to state" voters. Staff found that the test claim

legislation constitutes a new program or higher level of service and imposes a reimbursable state-mandated program on local agencies.

Parties were represented as follows: Allan Burdick, representing the County of Tuolumne and the California State Association of Counties; Timothy Johnson, Auditor-Controller Clerk and Registrar of Voters for the County of Tuolumne; and Tom Lutzenberger and Amber Pearce, representing the Department of Finance.

Chairperson Porini confirmed with the parties that this was an undisputed claim. Mr. Burdick agreed. Ms. Pearce added that she concurred with the staff analysis; however, she had concerns to address in the parameters and guidelines regarding what costs are reimbursable.

Hearing no further comments, Member Lazar moved for approval of staff's recommendation to approve the test claim and adopt the proposed Statement of Decision, and authorize staff to complete the proposed Statement of Decision by adding the missing information. With a second by Member Sherwood, the motion carried unanimously.

## **INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8**

### **ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES**

Item 7      *Standardized Testing and Reporting, 97-TC-23*  
San Diego Unified School District, Claimant  
Education Code Sections 60607, et al  
Statutes of 1997, Chapter 828  
Title 5, California Code of Regulations,  
Sections 850-874

Item 7 was postponed at the request of the claimant.

## **EXECUTIVE DIRECTOR'S REPORT**

Item 9      Workload, Legislation, Next Agenda

Ms. Higashi noted the following:

- *Legislation.* The Bureau of State Audits commenced its audit of the *School Bus Safety II* mandate. Staff, with the Commission and the State Controller's Office, met with the auditors to discuss the scope of the audit. The Commission has provided them a copy of the administrative record for both *School Bus Safety I* and *School Bus Safety II*.
- *Next Hearing.* The November 29, 2001 hearing will be moved to December, possibly December 12, 2001. The date will be confirmed.
- *Personnel.* Kathy Lynch, Commission Staff Counsel, accepted another position with the Attorney General's Office.

**CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526.**

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *County of San Bernardino v. State of California, et al.*, Case Number B140704 in the Appellate Court of California, Second Appellate District, Division 2.
2. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number D0 38027, in the Appellate Court of California, Fourth Appellate District, Division 1.
3. *Department of Finance v. Commission on State Mandates, et al.*, Case Number 00CS01446, in the Superior Court of the State of California, County of Sacramento.
4. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00810, in the Superior Court of the State of California, County of Sacramento.
5. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number C037645, in the Court of Appeal, Third Appellate District.
6. *City of San Diego v. Commission on State Mandates, et al.* Case Number GIC751187, in the Superior Court of the State of California, County of San Diego.
7. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number BS064497, in the Superior Court of the State of California, County of Los Angeles.
8. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number BS06911, in the Superior Court of the State of California, County of Los Angeles.
9. *County of San Bernardino v Commission on State Mandates of the State of California et al.*, Case Number SCVSS72444, in the Superior Court of the State of California, County of San Bernardino.
10. *County of San Diego v. Commission on State Mandates, et al.*, Case Number GIC762953, in the Superior Court of the State of California, County of San Diego.

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

## PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

Hearing no further comments, Chairperson Porini adjourned into closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

## REPORT FROM CLOSED EXECUTIVE SESSION

Chairperson Porini reported that the Commission met in closed executive session pursuant to Government Code section 11126, subdivision (e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and Government Code sections 11126, subdivision (a), and 17526, to confer on personnel matters listed on the published notice and agenda.

## ADJOURNMENT

Hearing no further business, Chairperson Porini adjourned the meeting at 10:56 a.m.



PAULA HIGASHI  
Executive Director

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**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300  
SACRAMENTO, CA 95814  
PHONE: (916) 323-3562  
FAX: (916) 445-0278  
E-mail: csminfo@csm.ca.gov



October 26, 2001

Mr. Glenn Haas  
State Controller's Office  
Division of Accounting and Reporting  
3301 C Street, Suite 500  
Sacramento, California 95816

*And Interested Parties and Affected State Agencies*

Re: Adoption of Amendment to Parameters and Guidelines  
*Mandate Reimbursement Process*  
CSM-4485

Dear Mr. Haas:

On October 25, 2001, the Commission on State Mandates adopted the amended Parameters and Guidelines for this test claim.

A copy of the final Parameters and Guidelines, as amended, is enclosed. If you have any questions please contact Nancy Patton at (916) 323-8217.

Sincerely,

  
PAULA HIGASHI  
Executive Director

Enclosure

f:\mandates\csm4000\4485\2001\pgaadopttr

MAILED: ☒ 10/26/01  
DATE: 10/26/01  
FAXED: ☒  
INITIAL: VS - 497 -  
FILE: ☒  
WORKING BINDER: \_\_\_\_\_

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE AMENDMENT TO PARAMETERS  
AND GUIDELINES ON:

Statutes of 1975, Chapter 486; Statutes of 1984,  
Chapter 1459; Statutes of 1995, Chapter 303  
(Budget Act of 1995); Statutes of 1996, Chapter  
162 (Budget Act of 1996); Statutes of 1997,  
Chapter 282 (Budget Act of 1997); Statutes of  
1998, Chapter 324 (Budget Act of 1998); Statutes  
of 1999, Chapter 50 (Budget Act of 1999),  
Statutes of 2000, Chapter 52 (Budget Act of  
2000), Statutes of 2001, Chapter 106 (Budget Act  
of 2001)

NO. CSM-4485-00

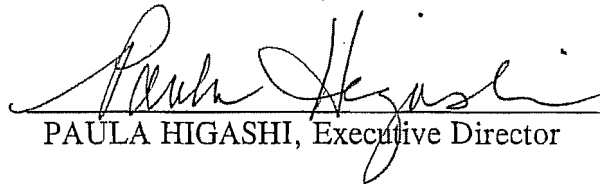
*Mandate Reimbursement Process*

ADOPTION OF AMENDMENT TO  
PARAMETERS AND GUIDELINES  
PURSUANT TO GOVERNMENT CODE  
SECTION 17557 AND TITLE 2,  
CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 1183.2 AND 1185.3.

*(Adopted on October 25, 2001)*

**PARAMETERS AND GUIDELINES AMENDMENT**

On October 25, 2001, the Commission on State Mandates adopted the attached Amended Parameters and Guidelines. This decision shall become effective on October 26, 2001.

  
\_\_\_\_\_  
PAULA HIGASHI, Executive Director

File: CSM-4485-01  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
Seventh Amendment Adopted: September 28, 2000  
Eighth Amendment Adopted: October 25, 2001  
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## AMENDMENTS TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)  
Statutes of 2001, Chapter 106 (Budget Act of 2001)

### *Mandate Reimbursement Process*

[For fiscal years 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, and 2001-02 only, these parameters and guidelines are amended, pursuant to the requirements of (1) provision 11 of Item 0840-001-001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1995, (2) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1996, (3) provision 9 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1997, (4) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1998, (5) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 1999, (6) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 2000, (7) provision 8 of Item 0840-001-0001 and provision 1 of Item 8885-001-0001 of the Budget Act of 2001, to include Appendix A.]

### **I. Summary of Mandate**

Chapter 486, Statutes of 1975, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, Chapter 486/75 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Chapter 1459, Statutes of 1984, created the Commission on State Mandates, which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by article XIII B, section 6 of the California Constitution for state mandates under the Government Code, section 17552.

Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.

## **II. Commission on State Mandates Decision**

On March 27, 1986, the Commission on State Mandates determined that local agencies and school districts incurred "costs mandated by the state" as a result of Chapter 486, Statutes of 1975, and Chapter 1459, Statutes of 1984. Specifically, the commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. Eligible Claimants**

All local agencies and school districts incurring increased costs as a result of this mandate are eligible to claim reimbursement of those costs.

## **IV. Period of Claim**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed.

## **V. Reimbursable Costs**

### **A. Scope of Mandate**

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments (counties, cities, school districts, special districts, etc.) cannot be made financially whole unless all state-mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable.

### **B. Reimbursable Activities -- Test Claims**

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

### **C. Reimbursable Activities -- Reimbursement Claims**

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

## **VI. Claim Preparation**

### **A. Supporting Data**

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state-mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

## B. Salaries and Benefits

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

## C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate.

## D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

## E. Training

### 1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

### 2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

## F. Indirect Costs

### 1. Local Agencies

Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Local agencies have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.

2. School Districts

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

4. Community College Districts

Community College Districts must use one of the following three alternatives:

- a. An ICRP based on OMB Circular A-21;
- b. The State Controller's FAM-29C which uses the CCFS-311; or
- c. Seven percent (7%).

**VII. Offsetting Savings and Other Reimbursement**

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claims. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

**VIII. Required Certification**

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

---

SIGNATURE OF AUTHORIZED REPRESENTATIVE

---

DATE

---

TITLE

---

TELEPHONE NUMBER

(Continue to Appendix A)



## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

#### Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, and 2001-02<sup>1</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (a) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

---

<sup>1</sup> The limitation added by (1) the Budget Act of 1995, Chapter 303, Statutes of 1995, in Item 0840-001-001, Provision 11, and in Item 8885-001-001, Provision 1, (2) the Budget Act of 1996, Chapter 162, Statutes of 1996, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, Chapter 282, Statutes of 1997, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, Chapter 324, Statutes of 1998, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, Chapter 50, Statutes of 1999, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, Chapter 52, Statutes of 2000, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (7) the Budget Act of 2001, Chapter 106, Statutes of 2001, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

DECLARATION OF SERVICE BY MAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 350, Sacramento, California 95814.

October 26, I served the:

Adoption of Amendment to Parameters and Guidelines  
*Mandate Reimbursement Process*  
CSM-4485

by placing a true copy thereof in an envelope addressed to:

Mr. Glenn Haas  
State Controller's Office  
Division of Accounting and Reporting  
3301 C Street, Suite 500  
Sacramento, California 95816

*State Agencies and Interested Parties (See attached mailing list);*

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 26, 2001, at Sacramento, California.

  
VICTORIA SORIANO

# Commission on State Mandates

List Date: 07/28/2000

Mailing Information Completeness Determination

## Mailing List

Claim Number 4485 Claimant Mandate Reimbursement Process - P&G's

Subject Chapters 486/75; 1459/84; 303/95; 162/96; 282/97; 324/98

Issue Mandate Reimbursement Process

Dr. Carol Berg,  
Education Mandated Cost Network

1121 L Street Suite 1060  
Sacramento CA 95814

Tel: (916) 446-7517  
FAX: (916) 446-2011

Interested Person

Mr. Robert Brooks, Staff Analyst II  
Riverside Co. Sheriff's Acct. and Finance Bureau

4095 Lemon Street P O Box 512  
Riverside Ca 92502

Tel: (909) 955-2709  
FAX: (909) 955-2720

Interested Person

Mr. Allan Burdick,  
MAXIMUS

4320 Auburn Blvd., Suite 2000  
Sacramento CA 95841

Tel: (916) 485-8102  
FAX: (916) 485-0111

Interested Person

Mr. Peter Carton,  
Schools Legal Service

P O Box 2445  
Bakersfield CA 93303-2445

Tel: (805) 636-4830  
FAX: (805) 636-4843

Interested Person

Ms. Annette Chinn,  
Cost Recovery Systems

705-2 East Bidwell Street #294  
Folsom CA 95630

Tel: (916) 939-7901  
FAX: (916) 939-7801

Interested Person

Claim Number

4485

Claimant

Mandate Reimbursement Process - P&G's

Subject

Chapters 486/75; 1459/84; 303/95; 162/96; 282/97; 324/98

Issue

Mandate Reimbursement Process

Mr. Jack Clarke, Jr.,  
Best, Best & Krieger

3750 University Avenue PO Box 1028  
Riverside CA 92502-1028

Tel: (909) 686-1450  
FAX: (909) 686-3083

Interested Person

Mr. Paul Dauer,  
Dauer & Thompson

3455 American River Drive Suite C  
Sacramento CA 95864

Tel: (916) 974-3400  
FAX: (916) 974-3405

Interested Person

Mr. William A. Doyle, Mandated Cost Administrator  
San Jose Unified School District

1153 El Prado Drive  
San Jose CA 95120

Tel: (408) 997-2500  
FAX: (408) 997-3171

Interested Person

Ms. Susan Geanacou, Senior Staff Attorney  
Department of Finance

915 L Street, 11th Floor  
Sacramento CA 95814

Tel: (916) 445-3274  
FAX:

State Agency

Mr. Glenn Haas, Bureau Chief (B-8)

State Controller's Office  
Division of Accounting & Reporting  
3301 C Street Suite 500  
Sacramento CA 95816

Tel: (916) 445-8757  
FAX: (916) 323-4807

State Agency

Mr. Leslie Hobson,  
Senior Administrative Analyst  
County of Placer

175 Fulweiler Avenue  
Auburn CA 95603

Tel: (530) 889-4026  
FAX: (530) 889-4023

Interested Person

## Subject

Chapters 486/75; 1459/84; 303/95; 162/96; 282/97; 324/98

## Issue

Mandate Reimbursement Process

Mr. Leonard Kaye, Esq.,  
County of Los Angeles  
Auditor-Controller's Office  
500 W. Temple Street, Room 603  
Los Angeles CA 90012

*Tel:* (213) 974-8564  
*FAX:* (213) 617-8106

Interested Person

Mr. Steve Keil,  
California State Association of Counties

1100 K Street Suite 101  
Sacramento CA 95814-3941

*Tel:* (916) 327-7523  
*FAX:* (916) 441-5507

Interested Person

Ms. Tom Lutzenberger, Principal Analyst (A-15)  
Department of Finance

915 L Street, 6th Floor  
Sacramento CA 95814

*Tel:* (916) 445-8913  
*FAX:* (916) 327-0225

State Agency

Ms. Diana K. McDonough,  
Lozano Smith

1010 B Street Suite 200  
San Rafael CA 94901

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*FAX:* (415) 456-3826

Interested Person

Mr. Paul Minney,  
Spector, Middleton, Young & Minney, LLP

7 Park Center Drive  
Sacramento Ca 95825

*Tel:* (916) 646-1400  
*FAX:* (916) 646-1300

Interested Person

Mr. Joseph D. Mullender, Jr.,  
Attorney at Law

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## Subject

Chapters 486/75; 1459/84; 303/95; 162/96; 282/97; 324/98

## Issue

Mandate Reimbursement Process

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Interested Person

Claim Number

4485

Claimant

Mandate Reimbursement Process - P&G's

Subject

Chapters 486/75; 1459/84; 303/95; 162/96; 282/97; 324/98

Issue

Mandate Reimbursement Process

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Interested Person



**Claim Number**

4485 ..

**Claimant**

Mandate Reimbursement Process - P&G's

**Subject**

Chapters 486/75; 1459/84; 303/95; 162/96; 282/97; 324/98

**Issue**

Mandate Reimbursement Process

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Interested Person



COMMISSION ON STATE MANDATES

NOTICE AND AGENDA <sup>1</sup>

State Capitol, Room 126  
Sacramento, California

February 27, 2003

9:30 A.M. - PUBLIC SESSION

I. CALL TO ORDER AND ROLL CALL

II. APPROVAL OF MINUTES

Item 1 January 23, 2003

III. PROPOSED CONSENT CALENDAR (action)

*Note: If there are no objections to any of the following action items designated by an asterisk (\*), the Executive Director will include it on the Proposed Consent Calendar that will be presented at the hearing. The Commission will determine which items will remain on the Consent Calendar*

IV. HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

A. APPEAL OF EXECUTIVE DIRECTOR DECISION TO DENY REQUEST FOR POSTPONEMENT OF HEARING

Item 2 *Standardized Account Code Structure, 97-TC-17*  
Brentwood Union School District, Appellant and Claimant  
Statutes 1993, Chapter 237 (SB 94)  
Statutes 1995, Chapter 525 (AB 438)  
Statutes 1997, Chapter 299 (AB 1578)  
State Board of Education's Revision of the California  
School Accounting Manual (Part II)

B. TEST CLAIM

Item 3 *Standardized Account Code Structure, 97-TC-17*  
Brentwood Union School District, Claimant  
Statutes 1993, Chapter 237 (SB 94)  
Statutes 1995, Chapter 525 (AB 438)  
Statutes 1997, Chapter 299 (AB 1578)  
State Board of Education's Revision of the California  
School Accounting Manual (Part II)

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<sup>1</sup> This public meeting notice is available on the Internet at <http://www.csm.ca.gov>.

C. PROPOSED STATEMENTS OF DECISION – TEST CLAIMS

- Item 4\*     *Teacher Incentive Program*, 99-TC-15  
San Diego Unified School District, Claimant  
Education Code Sections 44395 and 44396  
Statutes 1998, Chapter 331 (AB 858)
- Item 5\*     *Criminal Background Checks II*, 00-TC-05  
Napa County Office of Education, Claimant  
Education Code Sections 44830.1, 44830.2, 45125, 45125.01, and 45125.2  
Penal Code Sections 11077 and 11105.02  
Statutes 1972, Chapter 1437 (AB 1685)  
Statutes 1992, Chapter 1026 (SB 1769)  
Statutes 1998, Chapter 594 (AB 1392)  
Statutes 1998, Chapter 840 (AB 2102)  
Statutes 1999, Chapter 78 (AB 1115)  
California Code of Regulations, Title 11, Sections 700-708

D. PROPOSED STATEMENTS OF DECISION INCORRECT REDUCTION CLAIMS

- Certification of Teacher Evaluator's Demonstrated Competence*  
Education Code Section 35160.5  
Statutes 1983, Chapter 498 (SB 813)
- Item 6\*     Manhattan Beach Unified School District, Claimant. 99-4136-I- 03
- Item 7\*     Ventura County Office of Education, Hayward Unified School District,  
Kings Canyon Joint Unified School District, Visalia Unified School District,  
Salinas City Elementary School District, Conejo Valley Unified School  
District, Claremont Unified School District, Oak Grove Elementary School  
District, Ventura Unified School District, Oceanside City Unified School  
District, Roseville Joint Union High School District, Folsom Cordova  
Unified School District, Palmdale School District, Moreland Elementary  
School District, Novato Unified School District, Modesto City Schools, San  
Benito Union High School District, Manteca Unified School District, El  
Monte Elementary School District, Las Virgenes Unified School District,  
Del Norte County Unified School District, Glendale Unified School District,  
Garden Grove Unified School District, San Lorenzo Unified School District,  
Lompoc Unified School District, Mojave Unified School District, Lodi  
Unified School District, San Juan Unified School District, Los Altos  
Elementary School District, Salinas Union High School District, Los  
Angeles County Office of Education, Morgan Hill Unified School District,  
Fairfield-Suisun Unified School District, Ojai Unified School District,  
Bellflower Unified School District, Berryessa Union School District,  
Livingston Union School District, Whittier Union High School District,  
Claimants, 99-4136-I- 01, 02, and 04 through 39

V. INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

A. ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES AND PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES

- Item 8 Request to Amend Parameters and Guidelines  
*Investment Reports*, 00-PGA-02  
City of Newport Beach, Requestor  
Government Code Section 53646, subdivisions (a), (b) and (e)  
Statutes 1995, Chapter 783 (SB 564)  
Statutes 1996, Chapters 156 & 749 (SB 864 & SB 109)
- Item 9\* Proposed Amendment of Parameters and Guidelines  
*Mandate Reimbursement Process*, CSM-4485  
Statutes 1975, Chapter 486 (AB 1375)  
Statutes 1984, Chapter 1459 (SB 2337)  
Statutes 1995, Chapter 303 (Budget Act of 1995) (AB 903)  
Statutes 1996, Chapter 162 (Budget Act of 1996) (SB 1393)  
Statutes 1997, Chapter 282 (Budget Act of 1997) (AB 107)  
Statutes 1998, Chapter 324 (Budget Act of 1998) (AB 1656)  
Statutes 1999, Chapter 50 (Budget Act of 1999) (SB 160)  
Statutes 2000, Chapter 52 (Budget Act of 2000) (AB 1740)  
Statutes 2001, Chapter 106 (Budget Act of 2001) (SB 739)  
Statutes 2002, Chapter 379 (Budget Act of 2002) (AB 425)
- Item 10\* Proposed Parameters and Guidelines  
*Immunization Records: Hepatitis B*, 98-TC-05  
Los Angeles County Office of Education, Claimant  
Education Code Section 48216  
Health and Safety Code Sections 120325, 120335, 120340, and 120375  
Statutes 1978, Chapter 325 (AB 2260); Statutes 1979, Chapter 435 (AB 805);  
Statutes 1982, Chapter 472 (SB 818); Statutes 1991, Chapter 984 (SB 407);  
Statutes 1992, Chapter 13 (AB 2798); Statutes 1994, Chapter 1172 (AB 2971)  
Statutes 1995, Chapters 219 and 415 (AB 382 and SB 1360)  
Statutes 1996, Chapter 1023 (SB 1497)  
Statutes 1997, Chapters 855 and 882 (SB 727 and AB 381)  
Title 17, California Code of Regulations, Sections 6020, 6035, 6040, 6055, 6065, 6070, and 6075
- Item 11\* Proposed Parameters and Guidelines  
*Presidential Primaries*, 99-TC-04  
Proposed Parameters and Guidelines  
County of Tuolumne, Claimant  
Statutes 1999, Chapter 18 (SB 100)  
Elections Code, Sections 15151 and 15375

- Item 12\* Request to Amend Parameters and Guidelines  
*Absentee Ballots*, 02-PGA-02  
Legislature, Requestor  
Elections Code Sections 3003 and 3024  
Statutes 1978, Chapter 77 (AB 1699)  
Statutes 2002, Chapter 1032 (AB 3005)

B. RULEMAKING, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

- Item 13\* Proposed Order to Initiate Rulemaking: Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Article 1. General, Article 3. Test Claims, Article 4. Mandates Recognized by the Legislature, Article 9. Conflict of Interest

VI. EXECUTIVE DIRECTOR'S REPORT

- Item 14 Workload and Next Agenda (info)  
Item 15 Pending Legislation: SB 93 – Alpert (info/action)

VII. PUBLIC COMMENT

VIII. CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526. (Closed Executive Session may begin at this time or may begin earlier on this day and reconvene at the end of the meeting.)

A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126, subdivision (e)(1):

1. *San Diego Unified School District and San Juan Unified School District v. Commission on State Mandates, et al.*, Case Number 00CS00816, in the Superior Court of the State of California, County of Sacramento. CSM Case No. 01-L-04 [*Physical Performance Tests*]
2. *County of San Diego v. Commission on State Mandates, et al.*, Case Number D039471, in the Appellate Court of the State of California, Fourth Appellate District, Division 1. CSM Case No. 01-L-16 [*San Diego MIA*]
3. *County of Los Angeles v. Commission on State Mandates, et al.*, Case Number B156870, in the Appellate Court of the State of California, Second Appellate District. CSM Case No. 01-L-17 [*Domestic Violence*]
4. *County of San Bernardino v. Commission on State Mandates, et al.*, Case Number BS069611, in the Appellate Court of the State of California, Second Appellate District. CSM Case No. 01-L-18 [*SEMS*]
5. *State of California, Department of Finance v. Commission on State Mandates, et al.*, Case Number 02CS00994, in the Superior Court of the State of California, County of Sacramento. CSM Case No. 02-L-01 [*School Bus Safety II*]

6. *San Diego Unified School District v. Commission on State Mandates, et al.*, Case Number S109125, in the Supreme Court of the State of California. CSM Case No. 02-L-02 [*Pupil Expulsions*]
7. *State of California, Department of Finance v. Commission on State Mandates, Kern Union High School District; San Diego Unified School District, County of Santa Clara*, Case Number S109219, in the Supreme Court of the State of California. CSM Case No. 02-L-03 [*School Site Councils*]
8. *County of San Bernardino v. Commission on State Mandates of the State of California, et.al.*, Case Number B163801, in the Appellate Court of the State of California, Second Appellate District. CSM Case No. 02-L-04 [*Property Tax Administration*]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126, subdivision (e)(2):

- Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members and/or staff (Gov. Code, § 11126, subd. (e)(2)(B)(i).)

#### B. PERSONNEL

To confer on personnel matters pursuant to Government Code sections 11126, subdivision (a) and 17526.

Discussion and action, if appropriate, on report from the Personnel Sub-Committee.

#### IX. REPORT FROM CLOSED EXECUTIVE SESSION

#### ADJOURNMENT

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For information, contact:

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**ITEM 9**  
**STAFF ANALYSIS**  
**PROPOSED PARAMETERS AND GUIDELINES AMENDMENT**

Statutes 1975, Chapter 486  
Statutes 1984, Chapter 1459  
Statutes 1995, Chapter 303 (Budget Act of 1995)  
Statutes 1996, Chapter 162 (Budget Act of 1996)  
Statutes 1997, Chapter 282 (Budget Act of 1997)  
Statutes 1998, Chapter 324 (Budget Act of 1998)  
Statutes 1999, Chapter 50 (Budget Act of 1999)  
Statutes 2000, Chapter 52 (Budget Act of 2000)  
Statutes 2001, Chapter 106 (Budget Act of 2001)  
Statutes 2002, Chapter 379 (Budget Act of 2002)

*Mandate Reimbursement Process*

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## ITEM 9

### STAFF ANALYSIS PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Statutes 1975, Chapter 486  
Statutes 1984, Chapter 1459  
Statutes 1995, Chapter 303 (Budget Act of 1995)  
Statutes 1996, Chapter 162 (Budget Act of 1996)  
Statutes 1997, Chapter 282 (Budget Act of 1997)  
Statutes 1998, Chapter 324 (Budget Act of 1998)  
Statutes 1999, Chapter 50 (Budget Act of 1999)  
Statutes 2000, Chapter 52 (Budget Act of 2000)  
Statutes 2001, Chapter 106 (Budget Act of 2001)  
Statutes 2002, Chapter 379 (Budget Act of 2002)

#### *Mandate Reimbursement Process*

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#### EXECUTIVE SUMMARY

The *Mandate Reimbursement Process* program allows local agencies and school districts to be reimbursed for costs incurred in preparing and presenting successful test claims to the Commission on State Mandates (Commission) and submitting reimbursement claims to the State Controller's Office (SCO). Incorrect reduction claims are considered an element of reimbursement claims.

The original parameters and guidelines for this program were adopted on November 20, 1986. Each year, the Commission amends these parameters and guidelines to incorporate the most recently enacted state budget act.

#### **Staff Analysis**

Commission staff prepared the proposed annual amendment of the Mandate Reimbursement Process parameters and guidelines and requested comments. Staff reviewed comments received and made the technical changes noted above and for purposes of consistency, modified sections VI through IX and the preamble to section V to match recently adopted language for parameters and guidelines.

#### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed amended parameters and guidelines (see Exhibit A), as modified by Commission staff, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.



## CHRONOLOGY

10/25/01 Commission adopted the Amended Parameters and Guidelines.  
10/04/02 Commission requested comments on the proposed annual amendment of the parameters and guidelines.<sup>1</sup>  
10/29/02 The State Controller's Office (SCO) submitted comments.<sup>2</sup>  
11/04/02 The Department of Finance (DOF) submitted comments.<sup>3</sup>  
11/07/02 Mandated Cost Systems, Inc. (MCS) submitted comments.<sup>4</sup>  
02/06/03 Staff Analysis and Proposed Parameters and Guidelines released.

## BACKGROUND

On March 27, 1986, the Commission determined that Statutes 1975, chapter 486, and Statutes 1984, chapter 1459 imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

The *Mandate Reimbursement Process* parameters and guidelines allow local agencies and school districts to be reimbursed for costs incurred in preparing and presenting successful test claims and submitting reimbursement claims to the SCO. Incorrect reduction claims are considered an element of reimbursement claims. The original parameters and guidelines were adopted on November 20, 1986.

Since 1995, the state budget act has included supplemental language in the support appropriations for the SCO and the Commission. This language addresses local reimbursement for the costs of contracting with an independent contractor. The Commission adopted Appendix A to comply with the supplemental language.<sup>5</sup>

Each year, the Commission amends these parameters and guidelines and Appendix A to incorporate the most recently enacted budget act. However, the amendment does not include any other revisions enacted by subsequent legislation. Subsequent statutory revisions must be submitted as new test claims, and approved by the Commission before being included in parameters and guidelines.<sup>6</sup>

The Budget Act of 2002 states:

"The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

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<sup>1</sup> Exhibit A.

<sup>2</sup> Exhibit B.

<sup>3</sup> Exhibit C.

<sup>4</sup> Exhibit D.

<sup>5</sup> Page 17.

<sup>6</sup> For example, Statutes 1999, chapter 643 (AB 1679) added new provisions to allow the Commission to accept more than one test claim on the same statute or executive order. These new provisions are not reimbursable under the *Mandates Reimbursement Process* parameters and guidelines.

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district."

### STAFF ANALYSIS

The Commission staff prepared the proposed amendment of parameters and guidelines on October 4, 2002. Comments on the staff proposal were received from the SCO dated October 29, 2002, the DOF dated November 4, 2002, and MCS dated November 7, 2002.

Staff reviewed comments received. Staff did not make substantive changes to Section I. Summary of the Mandate. Non-substantive changes were made for clarification and conformity to the Statement of Decision, statutory language, the Commission's regulations, and with language in recently adopted parameters and guidelines.

The proposed amendment of parameters and guidelines were modified as discussed below:

#### General Comment

As a general comment, the DOF stated that the claimants should clearly demonstrate a direct link between the claimed costs and the activities alleged to be a reimbursable state-mandated local program. Staff finds that this concern is fully addressed by the language in Section IV, Reimbursable Activities, relating to the definition of "actual costs." Therefore, staff did not include further requirements.

#### II. Eligible Claimants

The SCO suggested that the statutory reference that defines a school district be included. Accordingly, this section was modified to include the statutory reference for both local agencies and school districts. This language is consistent with other recently adopted parameters and guidelines.

The SCO also requested clarification as to whether charter schools are a reimbursable entity or not. When adopting parameters and guidelines, the Commission is bound by Government Code section 17500 and following. Government Code section 17519 defines "school districts" as follows: "School district means any school district, community college district, or county superintendent of schools." Although costs incurred by a charter school may be included in a school district reimbursement claim, the definition in section 17519 does not include charter schools as eligible claimants. Therefore, staff did not include charter schools as eligible claimants.<sup>7</sup>

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<sup>7</sup> Staff notes that a test claim entitled Charter Schools III (99-TC-14) has been filed and directly raises the issue whether charter schools are proper claimants under article XIII B, section 6 of the California Constitution.

### Section III. Period of Reimbursement

Staff modified this section to conform to recently adopted language for parameters and guidelines. In addition, Statutes 2002, chapter 1124 (AB 3000), which became effective on September 30, 2002, increased the minimum amount that may be reimbursed from \$200 to \$1,000. Staff modified the language accordingly.

### Sections IV through IX

On March 28, 2002, the Bureau of State Audits (BSA) issued an audit report on the *School Bus Safety II* program recommending, among other things, that the Commission "work with the Controller, other affected state agencies, and interested parties to make sure the language in the [parameters and] guidelines and the claiming instructions reflect the [C]ommission's intentions as well as the Controller's expectations regarding supporting documentation." On September 30, 2002, Statutes 2002, chapter 1167 (AB 2781) was enacted to direct the Commission to amend the *School Bus Safety II* parameters and guidelines to detail the documentation necessary to support reimbursement claims. In addition, the SCO requested revisions to address documentation, and requested that these revisions be included in all parameters and guidelines.<sup>8</sup> On January 23, 2003, the Commission, upon direction of the Legislature, adopted revisions to the parameters and guidelines for the *School Bus Safety II* program, that detail the documentation necessary to support reimbursement claims.

Here, staff revised these sections to match the recently adopted language described above. These revisions clarify the intent of the Legislature and the BSA, and conform the language to recent statutory amendments.

Staff modified sections IV through IX as follows:

#### Section IV. Reimbursable Activities

DOF requested that the reference to "training packets" and "declarations" be deleted as these activities are only reimbursable in particular instances. MCS disagreed with DOF stating that documenting training costs via a sign-in sheet that documents all attendees along with the length of the training session is an accurate method of documenting training costs. MCS further stated that under the current Commission "boilerplate language," declarations are considered acceptable documentation to support reimbursement claims and thus should not be removed.

Staff disagrees with DOF. The references to documents that DOF requests be deleted are not reimbursable activities. This documentation is what is necessary to support the reimbursable activities. In addition, the documents listed are not an all-inclusive list, but rather, examples of documents that may be used to support or corroborate reimbursement claims. Therefore, staff did not remove the document references.

Staff added a preamble to this section to specify that only actual costs may be claimed, and that documentation to support claimed costs must be developed at or near the same time that the reimbursable activity occurred. Technical revisions were also made to this section regarding training to conform to recently adopted language in other parameters and guidelines.

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<sup>8</sup> Exhibit B.

## Section V. Claim Preparation and Submission

The DOF requested that the term “timely” filed be amended to more explicitly define the appropriate reimbursable claiming period. Staff did not amend this term since language is included under Section III: Period of Reimbursement that details the deadlines for filing reimbursement claims.

The DOF also proposed that the “Training” and “Travel” sections be eliminated and the “Fixed Assets and Equipment” section be modified to clarify that (1) only fixed assets and equipment directly related to the mandated activities are reimbursable, and (2) costs of any fixed asset or equipment costs should be amortized and claimed appropriately over the useful life of the equipment.

MCS disagreed with DOF’s proposal to eliminate the “Training” section, stating that without training of staff, the accuracy of claims would be compromised and disputes between claimants and the SCO would escalate. MCS further stated that training is a required cost needed to ensure successful claims are submitted and would be included under the Reimbursable Activities language of “All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the SCO are recoverable . . .”

Staff finds that training was identified as a reimbursable activity in the original parameters and guidelines; therefore staff did not eliminate this section. However, staff modified the language to clarify that training costs are limited to one time per employee; consistent with other recently adopted parameters and guidelines.

MCS disagreed with DOF’s proposal to eliminate the “Travel” section stating that travel is necessary to train staff and to attend Commission hearings. Staff finds that travel is necessary to participate in the mandate reimbursement process; and therefore, did not eliminate the “Travel” section.

MCS disagreed with DOF’s statement to amortize the purchase of a fixed asset over the useful life of the asset. MCS stated that the costs are recognized as an expense in the year purchased and therefore should be claimed fully in the year purchased. Staff made no changes to the “Fixed Assets and Equipment” section since this language conforms with language recently adopted by the Commission.

## Section VII. Offsetting Savings and Other Reimbursement

DOF suggested that a clarifying statement stipulating, “Offsetting revenue includes, but is not limited to, annual budget act appropriations or other measures that appropriate funding for the programs in question.” Staff did not make this proposed revision because the offsetting savings language recently adopted in *School Bus Safety II* and proposed here, clearly requires claimants to deduct from their reimbursement claims any offsetting savings it receives from any source.

DOF further suggested that a statement be added that prevents local entities from “double dipping” or claiming for the same activity through separate means. MCS disagreed with DOF’s comments, stating that when specific offsetting revenue is provided via the annual budget act or other measure, the guidelines should be modified at that time. MCS also stated that DOF’s comment regarding “double dipping” is vague and premature.



Under current practice, in situations where local agencies and school districts could claim for the same costs under one or more sets of parameters and guidelines, staff places restrictions in the language to direct local agencies and school districts to claim reimbursement under only one program. There is no similar program to the *Mandate Reimbursement Process* program. Therefore, staff did not include DOF's suggested revision. However, staff modified the language to conform to recently adopted language for parameters and guidelines.

#### Section VIII. State Controller's Claiming Instructions

This section previously contained language regarding the certification the SCO requires when local agencies and school districts submit reimbursement claims. On January 23, 2002, the Commission found that it is not authorized to include certification requirements in the parameters and guidelines. Instead, the SCO is authorized to include such requirements in their claiming instructions. Therefore, this section was revised to detail the statutory requirements for issuing claiming instructions. The revised language conforms to language recently adopted by the Commission.

#### Section IX. Remedies Before the Commission

This section was added to clarify that local agencies and school districts are authorized to request the Commission to review SCO claiming instructions and to amend parameters and guidelines. This language conforms to language recently adopted by the Commission.

### **STAFF RECOMMENDATION**

Staff recommends that the Commission adopt the proposed amended parameters and guidelines (see Exhibit A), as modified by Commission staff, beginning on page 9.

Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the parameters and guidelines following the hearing.



File: CSM-4485-01  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
Seventh Amendment Adopted: September 28, 2000  
Eighth Amendment Adopted: October 25, 2001  
~~Ninth Amendment Adopted: September 28, 2002~~  
j:\mandates\csm4000\4485\2002\pga102501\pga013003

## PROPOSED PARAMETERS AND GUIDELINES AMENDMENT

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
Statutes of 1996, Chapter 162 (Budget Act of 1996)  
Statutes of 1997, Chapter 282 (Budget Act of 1997)  
Statutes of 1998, Chapter 324 (Budget Act of 1998)  
Statutes of 1999, Chapter 50 (Budget Act of 1999)  
Statutes of 2000, Chapter 52 (Budget Act of 2000)  
Statutes of 2001, Chapter 106 (Budget Act of 2001)  
Statutes 2002, Chapter 379 (Budget Act of 2002)

### *Mandate Reimbursement Process*

[For fiscal years 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002, and 2002-2003 only, these parameters and guidelines are amended, pursuant to the requirements of: (1) provision 11 of Item 0840-001-001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1995; (2) provision 9 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1996; (3) provision 9 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1997; (4) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1998; (5) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1999, (6) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 2000, (7) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 2001; and (8) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 2002, to include Appendix A.]

## **I. SUMMARY OF THE MANDATE**

~~Chapter 486, Statutes of 1975, chapter 486,~~ established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, ~~Statutes 1975, Chapter 486/75~~ contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

~~Chapter 1459, Statutes of 1984, chapter 1459,~~ created the Commission on State Mandates (Commission), which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by article XIII, B, section 6 of the California Constitution for state mandates under the Government Code, section 17552.

Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.

## **~~H. COMMISSION ON STATE MANDATES DECISION~~**

On March 27, 1986, the ~~Commission on State Mandates~~ determined that local agencies and school districts incurred "costs mandated by the state" as a result of ~~Chapter 486, Statutes of 1975, chapter 486, and Chapter 1459, Statutes of 1984, chapter 1459.~~ Specifically, the ~~e~~Commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. ELIGIBLE CLAIMANTS**

~~Any~~ local agencies as defined in Government Code section 17518, ~~and~~ school districts as defined in Government Code section 17519, which ~~incurs~~ incurring increased costs as a result of this mandate ~~is~~ are eligible to claim reimbursement of those costs.

## **IIIV. PERIOD OF REIMBURSEMENT CLAIM**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 15, a local agency or

school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561 (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000,200, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

#### **VIV. REIMBURSABLE COSTS/ACTIVITIES**

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

##### **A. Scope of Mandate**

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments (~~counties, cities, school districts, special districts, etc.~~) cannot be made financially whole unless all state mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable.

## B. Reimbursable Activities

### 1. — Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

## ~~C. Reimbursable Activities~~

### 2. Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

### 3. Training

#### a. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate. (One-time activity per employee.)

#### b. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

## VI.V CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

#### A. Supporting Data

~~For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state-mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).~~

#### 1B-Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

~~Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.~~

#### 2C-Materials Service and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

~~Identify any direct costs for materials that have been consumed or expended specifically for this mandate.~~

#### 3D-Contract Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the

contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

#### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

#### 5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

#### 6E. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

##### 1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

##### 2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.



## BF. — Indirect Costs Rates

### 1. Local Agencies

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the Claimant shall have the choice of one of the following methodologies:

- a. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
- b. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

~~Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been~~

determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

- a. Local agencies have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.

## 2. School Districts

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## 3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

## 4. Community College Districts

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

## 4. Community College Districts

Community College Districts must use one of the following three alternatives:

- a. An ICRP based on OMB Circular A-21;
- b. The State Controller's FAM-29C which uses the CCFS-311; or
- c. Seven percent (7%).

## **VI. RECORD RETENTION**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter<sup>1</sup> is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## **VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT**

Any offsetting savings the claimants experiences in the same program as a direct result of the same~~this~~ statutes or executive orders found to contain the mandate shall ~~must~~ be deducted from the costs claimed~~s~~. In addition, reimbursement for this mandate from any source, including but not limited to, services fees collected, ~~received from any source, e.g.,~~ federal funds, and other, state funds, ~~etc.~~, shall be identified and deducted from this claim.

## **VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS**

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

Pursuant to Government Code section 17561, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

## **IX. REMEDIES BEFORE THE COMMISSION**

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

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<sup>1</sup> This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

**~~VIII. REQUIRED CERTIFICATION~~**

~~The following certification must accompany the claim:~~

~~I DO HEREBY CERTIFY:~~

~~THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and~~

~~THAT I am the person authorized by the local agency to file claims for funds with the State of California.~~

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~~SIGNATURE OF AUTHORIZED REPRESENTATIVE~~ ~~DATE~~

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~~TITLE~~ ~~TELEPHONE NUMBER~~

**(Continue to Appendix A)**

## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

#### Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002, and 2002-2003<sup>2</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (a) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

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<sup>2</sup> The limitation added by (1) the Budget Act of 1995, ~~Chapter 303~~, Statutes of 1995, chapter 303, in Item 0840-001-001, Provision 11, and in Item 8885-001-0001, Provision 1, (2) the Budget Act of 1996, ~~Chapter 162~~, Statutes of 1996, chapter 162, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, ~~Chapter 282~~, Statutes of 1997, chapter 282, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, ~~Chapter 324~~, Statutes of 1998, chapter 324, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, ~~Chapter 50~~, Statutes of 1999, chapter 50, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, ~~Chapter 52~~, Statutes of 2000, chapter 52, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (7) the Budget Act of 2001, ~~Chapter 106~~, Statutes of 2001, chapter 106, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (8) the Budget Act of 2002, Statutes 2002, chapter 379, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district; the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

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Hearing Date: November 21, 2002  
 File: CSM-4485-01 (9th Amendment)  
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## ITEM \_\_\_\_

### DRAFT STAFF ANALYSIS AMENDMENT TO PARAMETERS AND GUIDELINES

Statutes 1975, Chapter 486

Statutes 1984, Chapter 1459

Statutes 1995, Chapter 303 (Budget Act of 1995)

Statutes 1996, Chapter 162 (Budget Act of 1996)

Statutes 1997, Chapter 282 (Budget Act of 1997)

Statutes 1998, Chapter 324 (Budget Act of 1998)

Statutes 1999, Chapter 50 (Budget Act of 1999)

Statutes 2000, Chapter 52 (Budget Act of 2000)

Statutes 2001, Chapter 106 (Budget Act of 2001)

Statutes 2002, Chapter 379 (Budget Act of 2002)

#### *Mandate Reimbursement Process*

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#### EXECUTIVE SUMMARY

The *Mandate Reimbursement Process* parameters and guidelines allow local agencies and school districts to be reimbursed for costs incurred in preparing and presenting successful test claims and submitting reimbursement claims to the State Controller. Incorrect reduction claims are considered an element of reimbursement claims. The original parameters and guidelines were adopted on November 20, 1986.

Since 1995, the State Budget Act has included supplemental language in the support appropriations for the State Controller's Office and the Commission on State Mandates (Commission). This language addresses local reimbursement for the costs of contracting with an independent contractor. The Commission adopted Appendix A to comply with the supplemental language.

Each year, the Commission has amended these parameters and guidelines and Appendix A to reflect this language. However, other than the annual Budget Act language, the amendment does not include any revisions enacted by subsequent legislation. Subsequent statutory revisions must be submitted as new test claims, and approved by the Commission before being included in parameters and guidelines.<sup>1</sup>

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<sup>1</sup> For example, Statutes 1999, chapter 643 (AB 1679) added new provisions to allow the Commission to accept more than one test claim on the same statute or executive order. These new provisions are not currently reimbursable under the *Mandates Reimbursement Process* program.

The Budget Act of 2002 states:

"The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:

- (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.
- (b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district."<sup>2</sup>

#### **Staff Analysis**

Staff made the technical changes noted above and for purposes of consistency, modified sections VI through IX to match recently adopted boilerplate language for parameters and guidelines. Other than those described above, staff made no further changes to the parameters and guidelines for this claim.

#### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed amended parameters and guidelines (see Exhibit A).

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<sup>2</sup>Statutes 2002, chapter 379, Item 8885-001-0001, Provision 1.

File: CSM-4485-01  
Adopted: November 20, 1986  
First Amendment Adopted: March 26, 1987  
Second Amendment Adopted: October 26, 1995  
Third Amendment Adopted: January 30, 1997  
Fourth Amendment Adopted: September 25, 1997  
Fifth Amendment Adopted: October 29, 1998  
Sixth Amendment Adopted: September 30, 1999  
Seventh Amendment Adopted: September 28, 2000  
Eighth Amendment Adopted: October 25, 2001  
~~Ninth Amendment Adopted: [illegible]~~  
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## AMENDMENTS TO PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486  
Statutes of 1984, Chapter 1459  
Statutes of 1995, Chapter 303 (Budget Act of 1995)  
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## **I. SUMMARY OF THE MANDATE**

~~Chapter 486, Statutes of 1975, chapter 486,~~ established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, Statutes 1975, Chapter 486/75 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

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This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by article XIII B, section 6 of the California Constitution for state mandates under the Government Code, section 17552.

Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.

## **II. COMMISSION ON STATE MANDATES DECISION**

On March 27, 1986, the ~~Commission on State Mandates~~ determined that local agencies and school districts incurred "costs mandated by the state" as a result of ~~Chapter 486, Statutes of 1975, chapter 486, and Chapter 1459, Statutes of 1984, chapter 1459.~~ Specifically, the ~~e~~Commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **III. ELIGIBLE CLAIMANTS**

All local agencies and school districts incurring increased costs as a result of this mandate are eligible to claim reimbursement of those costs.

## **IV. PERIOD OF CLAIM**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

If the total costs for a given fiscal year do not exceed \$200, no reimbursement shall be allowed.

## V. REIMBURSABLE COSTS ACTIVITIES

### A. Scope of Mandate

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments (counties, cities, school districts, special districts, etc.) cannot be made financially whole unless all state-mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable.

### B. Reimbursable Activities—

#### 1. Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

### ~~C. Reimbursable Activities—~~

#### 2. Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

## VI. CLAIM PREPARATION AND SUBMISSION

Each reimbursement claim for this mandate must be timely filed. Each of the following cost elements must be identified for each reimbursable activity identified in Section IV of this document.

### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. Direct costs that are eligible for reimbursement are:

### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

### 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

### 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, only the pro-rata portion of the services used to implement the reimbursable activities can be claimed. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

### 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

### 5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

### 6. Training

Report the cost of training an employee to perform the reimbursable activities as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who

conduct the training according to the rules of cost element A.3, Contracted Services. This data, if too voluminous to be included with the claim, may be reported in a summary. However, supporting data must be maintained as described in Section VI.

#### A. Supporting Data

For audit purposes, all costs claimed shall be traceable to source documents (e.g., employee time records, invoices, receipts, purchase orders, contracts, worksheets, calendars, declarations, etc.) that show evidence of the validity of such costs and their relationship to the state mandated program. All documentation in support of the claimed costs shall be made available to the State Controller's Office, as may be requested, and all reimbursement claims are subject to audit during the period specified in Government Code section 17558.5, subdivision (a).

#### B. Salaries and Benefits

Employee costs should be supported by the following: employee name, position (job title), productive hourly rate, hours worked, salary and benefit amounts, and a description of the tasks performed as they relate to this mandate.

#### C. Service and Supplies

Identify any direct costs for materials that have been consumed or expended specifically for this mandate.

#### D. Contract Services

Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable. Provide copies of the invoices and/or claims that were paid.

#### E. Training

##### 1. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate.

##### 2. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

#### BF. Indirect Costs Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate, and (2) the costs of the central government services distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

## 1. Local Agencies

Compensation for indirect costs is eligible for reimbursement. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs and (b) the costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

Local agencies have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) pursuant to the Office of Management and Budget (OMB) Circular A-87.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the claimant shall have the choice of one of the following methodologies:

- a. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
- b. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an



equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

2. School Districts

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

4. Community College Districts

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the OMB Circular A-21, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

~~Community College Districts must use one of the following three alternatives:~~

- ~~a. An ICRP based on OMB Circular A-21;~~
- ~~b. The State Controller's FAM-29C which uses the CCFS-311; or~~
- ~~c. Seven percent (7%).~~

## **VII. SUPPORTING DATA**

### **A. Source Documents**

For auditing purposes, all incurred costs claimed must be traceable to source documents that show evidence of their validity and relationship to the reimbursable activities. Documents may include, but are not limited to, worksheets, employee time records or time logs, cost allocation reports (system generated), invoices, receipts, purchase orders, contracts, agendas, training packets with signatures and logs of attendees, calendars, declarations, and data relevant to the reimbursable activities otherwise reported in compliance with local, state, and federal government requirements.

### **B. Record Keeping**

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the State Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended.\* See the State Controller's claiming instructions regarding retention of required documentation during the audit period.

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\* This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

## VIII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience in the same program as a direct result of this the same statutes or executive orders found to contain the mandate must shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., including but not limited to, service fees collected, federal funds and other state funds, shall be identified and deducted from this claim.

## VIIX. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT sections 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the law have been complied with; and

THAT I am the person authorized by the local agency to file claims for funds with the State of California.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED REPRESENTATIVE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
TELEPHONE NUMBER

(Continue to Appendix A)

## PARAMETERS AND GUIDELINES

Statutes of 1975, Chapter 486

and

Statutes of 1984, Chapter 1459

### APPENDIX A

#### Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, and 2001-2002, and 2002-2003<sup>1</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (a) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid. For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

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<sup>1</sup> The limitation added by (1) the Budget Act of 1995, Chapter 303, Statutes of 1995, chapter 303, in Item 0840-001-001, Provision 11, and in Item 8885-001-001, Provision 1, (2) the Budget Act of 1996, Chapter 162, Statutes of 1996, chapter 162, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, Chapter 282, Statutes of 1997, chapter 282, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, Chapter 324, Statutes of 1998, chapter 324, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, Chapter 50, Statutes of 1999, chapter 50, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, Chapter 52, Statutes of 2000, chapter 52, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (7) the Budget Act of 2001, Chapter 106, Statutes of 2001, chapter 106, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (8) the Budget Act of 2002, Statutes 2002, chapter 379, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be permitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.

# Commission on State Mandates

Original List Date: 07/28/2000

Mailing Information Other

Last Updated: 10/04/2002

List Print Date: 10/04/2002

Claim Number: 4485

## Mailing List

Issue: Mandate Reimbursement Process

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County of San Bernardino  
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# Commission on State Mandates

Original List Date: 07/28/2000 Mailing Information Other

Last Updated: 10/04/2002

List Print Date: 10/04/2002

Claim Number: 4485

## Mailing List

Issue: Mandate Reimbursement Process

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# Commission on State Mandates

Original List Date: 07/28/2000

Mailing Information Other

Last Updated: 10/04/2002

List Print Date: 10/04/2002

## Mailing List

Claim Number: 4485

Issue: Mandate Reimbursement Process

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## *Commission on State Mandates*

Original List Date: 07/28/2000      Mailing Information    Other

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### **Mailing List**

Claim Number: 4485

Issue: Mandate Reimbursement Process

ALL PARTIES AND INTERESTED PARTIES h commission mailing list is continuously updated as requests are received to include or remove any party or person on mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously provide a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1.2.)





**KATHLEEN CONNELL**  
 Controller of the State of California

October 25, 2002

**RECEIVED**

Ms. Shirley Opie  
 Assistant Executive Director  
 Commission on State Mandates  
 980 Ninth Street, Suite 300  
 Sacramento, CA 95814

**OCT 29 2002**  
**COMMISSION ON**  
**STATE MANDATES**

RE: PROPOSED AMENDMENT OF PARAMETERS AND GUIDELINES FOR  
 MANDATE REIMBURSEMENT PROCESS  
 STATUTES OF 1995, CHAPTER 975

Dear Ms. Opie:

We have reviewed the Commission staff's annual amendment of proposed Parameters and Guidelines (P's & G's) for the above-referenced subject matter and have some recommended changes to the P's & G's and their format. Our review focused on implementing the recommendations that were contained in the Bureau of State Audits (BSA) School Bus Safety II audit report concerning documentation and clarity of the P's & G's. The results of our review and recommended changes are as follows and detailed in the enclosed attachment.

- Section III, Eligible Claimants, has been expanded to clarify if charter schools are eligible claimants;
- Section IV, Period of Claim, includes the revised minimum claim requirement as amended in *Government Code* section 17564;
- Section V, Reimbursable Activities, has been expanded to clarify reimbursable activities and the source documents that are necessary to support reimbursable mandated costs;
- Section VI, Claim Preparation and Submission, has been expanded to clearly reference the documentation necessary to support mandated cost claims;
- Section VII has been renamed Record Retention and expanded to include the new language of Chapter 1128 (Assembly Bill 2834), Statutes of 2002; and
- Section IX, State Controller's Office Required Certification, the certification of claimed reimbursement costs.

Ms. Shirley Opie


-2-

October 25, 2002

Our recommendations include substantial changes to the P's & G's format, and we propose that these changes be used in future programs.

If you have any questions, please contact Ginny Brummels, Manager of the Local Reimbursements Section, at (916) 324-0256.

Sincerely,



WALTER BARNES  
Chief Deputy Controller, Finance

WB:GH:glb

**AMENDMENT OF PARAMETERS AND GUIDELINES  
MANDATE REIMBURSEMENT PROCESS  
STATUTES OF 1975, CHAPTER 486**

**III. ELIGIBLE CLAIMANTS**

Any "school district", as defined in *Government Code* section 17519, except for community colleges, which incurs increased costs as a result of this mandate is eligible to claim reimbursement. *Government Code* section 17519 does not specifically define a school district to include charter schools. Therefore, the Controller's Office requests that clarification be made in the P's & G's to specify if charter schools are a reimbursable entity or not.

**IV. PERIOD OF CLAIM**

Pursuant to *Government Code* section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

Reimbursable actual costs for one fiscal year should be included in each claim. Estimated Costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Section 17561 (d)(1) of the *Government Code*, all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the claiming instruction by the State Controller. If the total costs for a given fiscal

year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by *Government Code* section 17564.

## V. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, costs claimed must have been incurred and be traceable and supported by source documents that show the validity of such costs and their relationship to the reimbursable activities. A source document is a contemporaneously created document for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the incremental cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable.

## VI. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section V, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section V. Additionally, each reimbursement claim must be filed in a timely manner.

### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

#### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided

by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

## 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

## 3. Contracted Services

Report the name of the contractor and services performed to implement the reimbursable activities. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is for a fixed price, report the services that were performed during the period covered by the reimbursement claim. If the contract services are also used for purposes other than the reimbursable activities, claim only the pro-rata portion of the services used to implement the reimbursable activities. Submit contract consultant and attorney invoices with the claim and a description of the contract scope of services.

## 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, claim only the pro-rata portion of the purchase price used to implement the reimbursable activities.

## 5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A.1, Salaries and Benefits, for each applicable reimbursable activity.

## 6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification

of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training sessions), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, claim only the pro-rata portion. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services. If this data is too voluminous to be included with the claim, report it in a summary. However, supporting data must be maintained, as described in Section VII, Record Retention.

## B. Indirect Cost Rates

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate, and (2) the costs of the central government services distributed to the other departments, based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an indirect cost rate proposal (ICRP) if the indirect cost rate claimed exceeds 10%. If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87, Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB Circular A-87, Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base that results in an equitable distribution.

In calculating an ICRP, the claimant has a choice of the following methodologies:

1. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87, Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate, which is used to distribute indirect costs to mandates. The rate should be expressed as the percentage that the total amount of allowable indirect costs bears to the base selected; or

2. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87, Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as the percentage that the total amount of allowable indirect costs bears to the base selected.

## VII. RECORD RETENTION

Pursuant to *Government Code* section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## VIII. OFFSETTING SAVINGS AND REIMBURSEMENTS

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

## IX. STATE CONTROLLER'S OFFICE REQUIRED CERTIFICATION

An officer of the claimant shall be required to provide a certification of the claim, for those costs mandated by the State as contained herein. The certification shall contain, at a minimum, the following elements:

- 1) A statement that the officer submitting the claim is doing so in accordance with the provisions of *Government Code* section 17561, that he or she is an officer of the local agency or school district, authorized to file claims with the State of California for costs mandated by Chapter 486, Statutes of 1975, and that he or she is not in violation of any of the provisions of *Government Code* sections 1090 to 1098 inclusive.

- 2) A statement that, there has been no other application from the claimant for the cost claimed; such claim is only for increased costs that are a direct result of the mandated program of Chapter 486, Statutes of 1975, all offsetting savings and reimbursements, discussed in Section VII of these parameters and guidelines are identified and all costs claimed are supported by source documentation currently maintained by the claimant.
- 3) A certification or declaration in the following form:

"I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct."

The form must be dated and signed by the hand of the authorized officer.





DEPARTMENT OF  
**FINANCE**  
OFFICE OF THE DIRECTOR

GRAY, DAVIS, GOVERNOR  
STATE CAPITOL ■ ROOM 1,145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

October 28, 2002

RECEIVED

NOV 04 2002

COMMISSION ON  
STATE MANDATES

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Dear Ms. Higashi:

As requested in your letter of October 4, 2002, the Department of Finance reviewed the Commission staff's proposed amendments to parameters and guidelines (Ps & Gs) for the Mandate Reimbursement Process (reference CSM 4485):

The Department of Finance urges the Commission to consider the following fiscal and policy concerns with the proposed parameters and guidelines:

General Comments Not Pertaining to Any Particular Section:

1. Finance believes that claimants should clearly demonstrate a direct link between the claimed costs and the activities alleged to be a reimbursable state-mandated local program.
2. Finance's comments in this letter are applicable only to this particular proposal; yet we reserve the right to raise the same or additional concerns in individual mandates, as applicable. Each particular mandate pending before the commission may have requirements or nuances that create the need for exceptions to the general policies outlined in these parameters. The details of any specific law need to be reviewed and evaluated in comparison with boilerplate language to ensure appropriate applicability.

Part VI. Claim Preparation and Submission:

1. The initial paragraph of the narrative indicates that each reimbursement claim "must be timely filed." We suggest amending the vague term "timely" to more explicitly define the appropriate reimbursable claiming period in accordance with the law and/or the Commission's regulations (i.e., Government Code Section 17560).
2. Within the "Fixed Assets and Equipment" section, we suggest clarifying the section to stipulate that (1) only fixed assets or equipment directly related to the mandated activities are reimbursable, and (2) that the costs of any mandated fixed asset or equipment costs should be amortized and claimed appropriately over the useful life of the equipment. We believe no demonstration has been made that fixed assets are needed to prepare mandate claims. Any use of equipment or fixed assets should be charged off per standard accounting practice. Moreover, only the share of the equipment or assets explicitly used for mandated activities in a particular situation would be reimbursable.

3. We recommend eliminating the "Travel" section since we do not see any reason why travel would be required to perform any activity under this mandate. Travel should be claimed separately and individually in instances where a mandated activity explicitly requires travel.

4. We also recommend eliminating the "Training" section since we do not see any reason why training would be required to perform any activity under this mandate. At a minimum, we suggest that the language be amended to clarify that training is not reimbursable unless it is specifically mandated in statute or regulation. Any training that is not explicitly required is permissive.

#### Part XII. Supporting Data

1. Within the "Source Documents" paragraph, we recommend striking reference to "training packets with signatures and logs of attendees" and "declarations," as these activities are only reimbursable in particular instances where such activities are explicitly required.

#### Part VIII. Offsetting Savings and Other Reimbursement

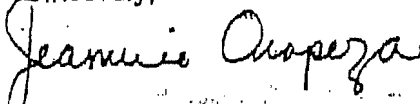
1. Finance suggests that this section include a clarifying statement stipulating that, "Offsetting revenue includes, but is not limited to, annual budget act appropriations or other measures that appropriate funding for the programs in question."

2. Finance also suggests adding a statement that prevents local entities from "double dipping," or claiming for the same activity through separate means.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your October 4, 2002 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Matt Aguilera, Principal Program Budget Analyst, at (916) 445-0828, or Keith Gmelinder, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,



Jeannie Oropeza  
Program Budget Manager

Attachment

## Attachment A

DECLARATION OF MATT AGUILERA  
DEPARTMENT OF FINANCE  
MANDATE REIMBURSEMENT PROCESS, CSM—4485 (Proposed Amendment of Parameters  
and Guidelines)

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.
2. We concur that the sections relevant to these Parameters and Guidelines are accurately quoted in the initial proposal submitted by claimants and, therefore, we do not restate them in this declaration.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

10/28/02

at Sacramento, CA

*Matt Aguilera*

Matt Aguilera

## PROOF OF SERVICE

Test Claim Name: Mandate Reimbursement Process

Test Claim Number: CSM-4485 (Re: Proposed Amendment of Parameters and Guidelines)

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7<sup>th</sup> Floor, Sacramento, CA 95814.

On October 28, 2002, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7<sup>th</sup> Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

B-8

State Controller's Office  
Division of Accounting & Reporting  
Attention: Michael Havey, Bureau Chief  
3301 C Street, Room 500  
Sacramento, CA 95816

B-29

Legislative Analyst's Office  
Attention: Marianne O'Malley  
925 L Street, Suite 1000  
Sacramento, CA 95814

Education Mandated Cost Network  
C/O School Services of California  
Attention: Dr. Carol Berg, PhD  
1121 L Street, Suite 1060  
Sacramento, CA 95814

Sixten &amp; Associates

Attention: Keith Petersen  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

E-8

Department of Education  
School Business Services  
Attention: Gerry Shelton  
1430 N Street, Suite 2213  
Sacramento, CA 95814

Mandated Cost Systems, Inc.

Attention: Steve Smith  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

San Diego Unified School District  
Attention: Arthur Palkowitz  
4100 Normal Street, Room 3159  
San Diego, CA 92103-8368

San Bernardino Office of the  
Auditor/Controller-Recorder

Attention: Mark Cousineau  
222 West Hospitality Lane  
San Bernardino, CA 92415-0018

California Teachers Association  
Attention: Nancy Shaffer  
6 Red River Court  
Sacramento, CA 95831

## MAXIMUS

Attention: Allan Burdick  
4320 Auburn Blvd., Suite 2000  
Sacramento, CA 95841

## Schools Legal Service

Attention: Peter Carton  
PO Box 2445  
Bakersfield, CA 93303-2445

## Cost Recovery Systems

Attention: Annette Chinn  
705-2 East Bidwell Street #294  
Folsom, CA 95630

## David Wellhouse

David Wellhouse & Associates, Inc.  
9175 Kiefer Blvd., Suite 121  
Sacramento, CA 95826

## County of Placer

Attention: Leslie Hobson  
175 Fulweller Avenue  
Auburn, CA 95603

## California State Association of Counties

Attention: Steve Kell  
1100 K Street, Suite 101  
Sacramento, CA 95814

## Joseph Mullender, Jr.

Attorney at Law  
89 Rivo Alto Canal  
Long Beach, CA 90803

## William D. Ross

Law Offices of William D. Ross  
520 South Grand Avenue, Suite 300  
Los Angeles, CA 90071-2610

## B-8

State Controller's Office  
Attention: Jim Spano  
300 Capitol Mall, Suite 518  
Sacramento, CA 95814

## Dauer &amp; Thompson

Attention: Paul Dauer  
3455 American River Drive, Suite C  
Sacramento, CA 95864

## San Jose Unified School District

Attention: William Doyle  
1153 El Prado Drive  
San Jose, CA 95120

## Best, Best &amp; Krieger

Attention: Jack Clarke, Jr.  
3750 University Avenue  
Riverside, CA 92501

## Lozano Smith

Attention: Laurie Sievenpiper  
285 West Bullard Ave., Suite 101  
Fresno, CA 93704

## Los Angeles County Auditor-Controller's Office

Attention: Leonard Kaye, Esq.  
500 W. Temple Street, Room 603  
Los Angeles, CA 90012

## Spector, Middleton, Young &amp; Minney, LLP

Attention: Paul Minney  
7 Park Center Drive  
Sacramento, CA 95825

## Centration, Inc.

Attention: Andy Nichols, Senior Manager  
12150 Tributary Point Drive, Suite 140  
Gold River, CA 95670

## Riverside County Sheriff's Office

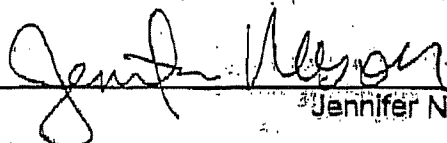
Attention: Mark Sigman  
4095 Lemon Street  
Riverside, CA 92501

## Shields Consulting Group, Inc.

Attention: Steve Shields  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

County of Santa Clara  
Controller-Treasurer Department  
Attention: Ram Venkatesan  
70 West Hedding Street, East Wing 2<sup>nd</sup> Floor  
San Jose, CA 95110

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 28, 2002, at Sacramento, California.

  
Jennifer Nelson

RECEIVED

NOV 07 2002

COMMISSION ON  
STATE MANDATES

November 7, 2002

Shirley Opie, Assistant Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Re: Proposed Amendments to Parameters & Guidelines for *Mandate Reimbursement Process*, CSM 4485

Dear Ms. Opie,

After reviewing the Department of Finance's (DOF) comments on the above referenced matter, Mandated Cost Systems, Inc. offers the following comments:

#### Part VI. Claim Preparation & Submission

##### Item 2.

We disagree with the DOF comments to amortize the purchase of a fixed asset over the useful life of the asset. These costs are recognized as an expense in the year purchased and therefore should be claimed fully in the year purchased. In addition, we disagree with the DOF assertion that no demonstration has been made that equipment or fixed assets are needed to prepare mandate claims. This is not true. In many school districts, full time or part time employees are assigned data collection and/or claim preparation duties. Consequently, their equipment (computer, desk etc.) or a pro-rated portion would be direct expense of this program and subject to reimbursement under this program.

##### Item 3.

We disagree with the DOF statement that travel is not necessary to perform any of the activities under this mandate. This is not the case. Under the reimbursement claim component, travel to and from district offices and school sites are necessary to train staff on what is reimbursable and the documentation needed to support claims. In addition, travel to out-of-district training workshops put on by our firm, School Services of California and the Mandated Cost Academy regarding what is reimbursable and how to document costs properly is another travel expense that would be reimbursable under this program.

Regarding the test claim component, travel to and from Commission on State Mandate hearings would be a necessary travel cost to prosecute a test claim.

##### Item 4.

We disagree with the DOF comment that training is not necessary and required cost of this program. Absent effective training of staff, the accuracy of claims would be seriously compromised and disputes between claimants and the State Controller's Office (SCO) would escalate. Training is a required cost that is part of the internal controls needed to ensure successful claims are submitted. Therefore, training would be included under the Reimbursable Activity language of "All costs incurred during the period of this claims for the preparation and submission of successful reimbursement claims to State Controller are recoverable..."



11130 Sun Center Drive,  
Suite 100  
Rancho Cordova, CA 95670  
(916)-669-0888 Bus  
(916)-669-0889 Fax

1890 Park Marina Drive,  
Suite 200  
Redding, CA 96001  
(530)-241-0767 Bus  
(530)-241-9209 Fax

November 7, 2002  
Shirley Opie, Assistant Executive Director  
Page Two

### Part XII. Supporting Data:

The DOF comments regarding striking the reference to "training packets with signatures and logs of attendees" and "declarations" makes no sense. The most accurate method of documenting training costs is via a sign-in sheet that documents all attendees along with the length of the training session. The training packet documents the topic/subject of the training and is critical to corroborate the topic. Regarding declarations, this form of documentation is part of the current Commission on State Mandates boilerplate for Supporting Data and should not be removed.

### Part VII. Offsetting Savings and Other Reimbursements:

#### Item 1.

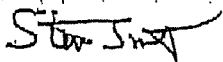
The DOF comments in this section should be rejected. If and when specific offsetting revenue is provided via the annual budget act or other measure, the guidelines should be modified at that time.

#### Item 2.

This proposed change is too vague and premature. We agree a clarification in this section is needed; however, to do this properly would require a comprehensive review of all school district revenue sources and a determination made as to which ones would be considered "double dipping". To the best of my knowledge, no mandated cost definition of "double dipping" exists in the Government Code or California Code of Regulations and the only guidance available is located in the State Controller's Claiming Instructions (September 2002, page 12) (Attachment 1). The SCO guidance provides only a vague description that references an "Appendix C" for a non-inclusive list of funding sources. Appendix C, however, does not contain this list but contains applicable Government Code Sections (Attachment 2).

If you have any questions, I can be contacted at (916) 669-0888.

Sincerely,



Steve Smith

CC: Mailing List



Table 6 Offset Against State Mandates, Example 2

	Program Costs	Actual Local Assistance Revenues	State Mandated Costs	Offset Against State Mandated Claims	Claimable Mandated Costs
1.	\$100,000	\$100,000	\$2,500	\$2,500	\$-0-
2.	100,000 **	75,000	2,500	1,875	625
3.	100,000 **	45,000	1,500	1,125	375

\*\* School district share is \$25,000 of the program cost.

In (2), the entire program cost was approved. Since the local assistance revenue source covers 75% of the program cost, it also proportionately covered 75% of the \$2,500 state mandated costs, or \$1,875.

If in (3) local assistance revenues are less than the amount expected because only \$60,000 of the \$100,000 program costs were determined to be valid by the contracting agency, then a proportionate share of state mandated costs is likewise reduced to \$1,500. The offset against state mandated claims is \$1,125. Therefore, the claimable mandated costs are \$375.

#### 6. Federal and State Funding Sources

The listing in Appendix C is not inclusive of all funding sources that should be offset against mandated claims but contains some of the more common ones. State school fund apportionments and federal aid for education, which are based on average daily attendance and are part of the general system of financing public schools as well as block grants which do not provide for specific reimbursement of costs (i.e., allocation formulas not tied to expenditures), should not be included as reimbursements from local assistance revenue sources.

#### 7. Governing Authority

The costs of salaries and expenses of the governing authority, such as the school superintendent and governing board, are not reimbursable. These are costs of general government as described by the federal guideline entitled "Cost Principle and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government, A-87.

#### 8. Payment of Claim by State Controller's Office

All claims submitted to the SCO are reviewed to determine if the claim was prepared in accordance with the claiming instructions. If any adjustments are made to a claim, the claimant will receive a "Notice of Claim Adjustments" detailing adjustments made by the SCO.

#### 9. Audit of Claim by State Controller's Office

The SCO has the authority to audit the records of a claimant and may reduce any claim, which is determined by the SCO to be excessive or unreasonable. The claimant has the responsibility of retaining, for a period of two years after the end of the calendar year in which the reimbursement claim is filed or last amended, all supporting documents (books of original entry, general and subsidiary ledgers, purchase orders, invoices, canceled warrants and payroll records). In those instances where no funds are appropriated for the program for the fiscal year, which the claim is made, the time for the SCO to initiate an audit commence to run from the date of initial payment of the claim. The claimant also has the responsibility of organizing the claim, supporting work papers and source documents in a manner, which provides the auditor with a clear audit trail from the claim to supporting documents.

## Attachment 2

State of California

School Mandated Cost Manual

**C. GOVERNMENT CODE SECTIONS 17500-17616****GC §17500: Legislative findings and declarations**

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs. It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution. Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIII B of the California Constitution.

**GC §17510: Construction of part**

Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this part. The definition of a word applies to any variants thereof and the singular tense of a word includes the plural.

**GC §17511: "City"**

"City" means any city whether general law or charter, except a city and county.

**GC §17512: "Commission"**

"Commission" means the Commission on State Mandates.

**GC §17513: "Cost Mandated by the federal government"**

"Costs mandated by the federal government" means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state. "Costs mandated by the federal government" does not include costs that are specifically reimbursed or funded by the federal or state government or programs or services, which may be implemented at the option of the state, local agency, or school district.

**GC §17514: "Costs mandated by the State"**

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

**GC §17515: "County"**

"County" means any chartered or general law county. "County" includes a city and county.

**GC §17516: "Executive Order"**

"Executive order" means any order, plan, requirement, rule, or regulation issued by any of the following:

(a) The Governor. (b) Any officer or official serving at the pleasure of the Governor. (c) Any agency, department, board, or commission of state government. "Executive order" does not include any order, plan, requirement, rule, or regulation issued by the State Water Resources Control Board or by any regional water quality control board pursuant to Division 7 (commencing with Section 13000) of the Water Code. It is the intent of the Legislature that the State Water Resources Control Board and regional water quality control boards will not adopt enforcement orders against publicly owned dischargers which mandate major waste water treatment facility construction costs unless federal financial assistance and state financial assistance pursuant to the Clean Water Bond Act of 1970 and 1974, is simultaneously made available. "Major" means either a new treatment facility or an addition to an existing facility, the cost of which is in excess of 20 percent of the cost of replacing the facility.

**GC §17517: "Fund"**

"Fund" means the State Mandates Claims Fund.

**GC §17518: "Local agency"**

"Local agency" means any city, county, special district, authority, or other political subdivision of the state.

**GC §17519: "School district"**

"School district" means any school district, community college district, or county superintendent of schools.

**GC §17520: "Special district"**

"Special district" means any agency of the state, which performs governmental or proprietary functions within limited boundaries. "Special district" includes a redevelopment agency, a joint powers agency or entity, a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area. "Special district" does not include a city, a county, a school district, or a community college district. County free libraries established pursuant to Chapter 2 (commencing with Section 27151) of Division 20 of the Education Code, areas receiving county fire protection services pursuant to Section 25643 of the Government Code, and county road districts established pursuant to Chapter 7 (commencing with Section 1550) of Division 2 of the Streets and Highways Code shall be considered "special districts" for all purposes of this part.

**GC §17521: "Test claim"**

"Test claim" means the first claim, including claims joined or consolidated with the first claim, filed with the commission alleging that a particular statute or executive order imposes costs mandated by the state.

**GC §17522: Definitions**

(a) "Initial reimbursement claim" means a claim filed with the Controller by a local agency or school district for costs to be reimbursed for the fiscal years specified in the first statute that appropriates funds for reimbursement of the mandate. (b) "Annual reimbursement claim" means a claim for actual costs incurred in a prior fiscal year filed with the Controller by a local agency or school district for which appropriations are made to the Controller for this purpose. (c) "Estimated reimbursement claim" means a claim filed with the Controller by a local agency or school district in conjunction with an initial reimbursement claim, annual reimbursement claim, or at other times, for estimated costs to be reimbursed during the current or future fiscal years, for which appropriations are made to the Controller for this purpose. (d) "Entitlement claim" means a claim filed by a local agency or school district with the

## State of California

## School Mandated Cost Manual

Controller for the purpose of establishing or adjusting a base year entitlement. All entitlement claims are subject to Section 17616.

**GC §17523: "Deflator"**

"Deflator" means the Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as determined by the Department of Finance.

**GC §17524: "Base year entitlement"**

"Base year entitlement" means that amount determined to be the average for the approved reimbursement claims of each local agency or school district for the three preceding fiscal years adjusted by the change in the deflator. A base year entitlement shall not include any nonrecurring or initial startup costs incurred by a local agency or school district in any of those three fiscal years. For those mandates which become operative on January 1 of any year, the amount of the "approved reimbursement claim" for the first of the three years may be computed by annualizing the amount claimed for the six-month period of January through June in that first year, excluding nonrecurring or startup costs.

**GC §17525: Members: Term and per diem for specified members.**

(a) There is hereby created the Commission on State Mandates, which shall consist of seven members as follows: (1) The Controller. (2) The Treasurer. (3) The Director of Finance. (4) The Director of the Office of Planning and Research. (5) A public member with experience in public finance appointed by the Governor and approved by the Senate. (6) Two members from the following three categories appointed by the Governor and approved by the Senate, provided that no more than one member shall come from the same category: (A) A city council member. (B) A member of a county or city and county board of supervisors. (C) A governing board member of school district as defined in Section 17519. (b) Each member appointed pursuant to paragraph (5) or (6) of subdivision (a) shall be subject to both of the following: (1) The member shall serve for a term of four years subject to renewal. (2) The member shall receive per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of duties as a member of the commission.

**GC §17526: Open Meetings: Executive sessions**

(a) All meetings of the commission shall be open to the public, except that the commission may meet in executive session to consider the appointment or dismissal of officers or employees of the commission or to hear complaints or charges brought against a member, officer, or employee of the commission. (b) The commission shall meet at least once every month. (c) The time and place of meetings may be set by resolution of the commission, by written petition of a majority of the members, or by written call of the chairperson. The chairperson may, for good cause, change the starting time or place, reschedule, or cancel any meeting. (d) This section shall become operative on July 1, 1996.

**GC §17527: Powers of Commission**

In carrying out its duties and responsibilities, the commission shall have the following powers: (a) To examine any document, report, or data, including computer programs and data files, held by any local agency or school district. (b) To meet at times and places as it may deem proper. (c) As a body or, on the authorization of the commission, as a committee composed of one or more members, to hold hearings at any time and place it may deem proper. (d) Upon a majority vote of the commission, to issue subpoenas to compel the attendance of witnesses and the production of books, records, papers, accounts, reports, and documents. (e) To administer oaths. (f) To contract with other agencies or individuals, public or private, as it deems necessary, to provide or prepare services, facilities, studies, and reports to the commission as will assist it in carrying out its duties and responsibilities. (g) To adopt, promulgate, amend, and rescind rules and regulations, which shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. (h) To

do any and all other actions necessary or convenient to enable it fully and adequately to perform its duties and to exercise the powers expressly granted to it.

**GC §17528: Election of Officers**

The members of the commission shall elect a chairperson and a vice-chairperson of the commission.

**GC §17529: Appointment of Attorney: Duties**

The commission may appoint as attorney to the commission an attorney at law of this state, who shall hold office at the pleasure of the commission. The attorney shall represent and appear for the commission in all actions and proceedings involving any question under this part or under any order or act of the commission. The attorney shall advise the commission and each member of the commission, when so requested, in regard to all matters in connection with the powers and duties of the commission and the members thereof. The attorney shall generally perform all duties and services as attorney to the commission, which the commission may require.

**GC §17530: Appointment of executive director: Duties**

The commission shall appoint an executive director, who shall be exempt from civil service and shall hold office at the pleasure of the commission. The executive director shall be responsible for the executive and administrative duties of the commission and shall organize, coordinate, supervise, and direct the operations and affairs of the commission and expedite all matters within the jurisdiction of the commission. The executive director shall keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform other duties as the commission prescribes.

**GC §17531: Authority of executive director to employ necessary staff**

The executive director may employ those officers, examiners, experts, statisticians, accountants, inspectors, clerks, and employees as the executive director deems necessary to carry out the provisions of this part or to perform the duties and exercise the powers conferred upon the commission by law.

**GC §17532: Quorum; investigations, inquiries, and hearing**

A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission. Any investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or commissioners designated for the purpose by the commission. The evidence in any investigation, inquiry, or hearing may be taken by the commissioner or commissioners to whom the investigation, inquiry, or hearing has been assigned or, in his or her or their behalf, by an examiner designated for that purpose. Every finding, opinion, and order made by the commissioner or commissioners so designated, pursuant to the investigation, inquiry, or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be deemed to be the finding, opinion, and order of the commission.

**GC §17533: Provisions not applicable to hearing by commission**

Notwithstanding Section 11425.10, Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 does not apply to a hearing by the commission under this part.

**GC §17550: Reimbursements of local agencies and school districts**

Reimbursement of local agencies and school districts for costs mandated by the state shall be provided pursuant to this chapter.

**State of California****School Mandated Cost Manual****GC §17551: Commission hearing and decision upon claims**

(a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution. (b) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

**GC §17552: Exclusivity of procedure by chapter**

This chapter shall provide the sole and exclusive procedure by which a local agency or school district may claim reimbursement for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

**GC §17553: Adoption of procedure for receiving claims and providing hearings; Postponement of hearings**

(a) The commission shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on those claims. The hearing procedure shall provide for presentation of evidence by the claimant, the Department of Finance and any other affected department or agency, and any other interested person. The procedures shall ensure that a statewide cost estimate is adopted within 12 months after receipt of a test claim, when a determination is made by the commission that a mandate exists. This deadline may be extended for up to six months upon the request of either the claimant or the commission. Hearing of a claim may be postponed at the request of the claimant, without prejudice, until the next scheduled hearing. (b) The procedures adopted by the commission pursuant to subdivision (a) shall include the following: (1) Provisions for acceptance of more than one claim on the same statute or executive order relating to the same statute or executive order filed with the commission, and, absent agreement by the test claimants to the contrary, to designate the first to file as the lead test claimant. (2) Provisions for consolidating test claims relating to the same statute or executive order filed with the commission with time limits that do not exceed 90 days from the initial filing for consolidating the test claims and for claimants to designate a single contact for information regarding the test claim. (3) Provisions for claimants to designate a single claimant for a test claim relating to the same statute or executive order filed with the commission, with time limits that do not exceed 90 days from the initial filing for making that designation. (c) If a completed test claim is not received by the commission within 30 calendar days from the date that an incomplete test claim was returned by the commission, the original test claim filing date may be disallowed, and a new test claim may be accepted on the same statute or executive order. (d) In addition, the commission shall determine whether an incorrect reduction claim is complete within 10 days after the date that the incorrect reduction claim is filed. If the commission determines that an incorrect reduction claim is not complete, the commission shall notify the local agency and school district that filed the claim stating the reasons that the claim is not complete. The local agency or school district shall have 30 days to complete the claim. The commission shall serve a copy of the complete incorrect reduction claim on the Controller. The Controller shall have no more than 90 days after the date the claim is delivered or mailed to file any rebuttal to an incorrect reduction claim. The failure of the Controller to file a rebuttal to an incorrect reduction claim shall not serve to delay the consideration of the claim by the commission.

**GC §17554: Commission's authority to expedite claim**

With the agreement of all parties to the claim, the commission may waive the application of any procedural requirement imposed by this chapter or pursuant to Section 17553 in order to expedite action on the claim. The authority granted by this section includes the consolidation of claims and the shortening of time periods.

**GC §17555: Date for public hearing: Test claim form and procedure**

(a) The commission, within 10 days after receipt of a test claim based upon a statute or executive order, shall set a date for a public hearing on the claim within 75 days. The test claim may be based upon estimated costs that a local agency or school district may incur as a result of the statute or executive order and may be filed at any time after the statute is enacted or the executive order is adopted. The claim shall be submitted in a form prescribed by the commission. After a hearing in which the claimant and any other interested organization or individual may participate, the commission shall determine if there are costs mandated by the state. (b) This section shall become operative on July 1, 1996.

**GC §17556: Criteria for not finding costs mandated by the state**

The commission shall not find costs mandated by the state as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that: (a) The claim is submitted by a local agency or school district, which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph. (b) The statute or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts. (c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation. (d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service. (e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate. (f) The statute or executive order imposed duties that were expressly included in a ballot measure approved by the voters in a statewide election. (g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

**GC §17557: Determination of amount to be subvended for reimbursement: Parameters and Guidelines**

(a) If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvended to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 30 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 30-day period at any time prior to its adoption of the parameters and guidelines. If proposed parameters and guidelines are not submitted within the 30-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 30-day period is justified. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines. (b) In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance that would provide for reimbursement of each local agency or school district of a specified amount each year. (c) The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred, provided, however, that the commission shall not specify therein any fiscal year for which payment could be provided in the annual Budget Act. A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. The



claimant may thereafter amend the test claim at any time prior to a commission hearing on the claim without affecting the original filing date as long as the amendment substantially relates to the original test claim.

**GC §17558: Submission of parameters and guidelines to Controller; Transfer of claims; claiming instructions**

(a) The commission shall submit the adopted parameters and guidelines to the Controller. All claims relating to a statute or executive order that are filed after the determination of the test claim pursuant to Section 17557 shall be transferred to the Controller who shall pay and audit the claims from funds made available for that purpose. (b) Not later than 60 days after receiving the adopted parameters and guidelines from the commission, the Controller shall issue claiming instructions for each mandate that requires state reimbursement, to assist local agencies and school districts in claiming costs to be reimbursed. In preparing claiming instructions, the Controller may request the assistance of other state agencies. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the commission. (c) The Controller shall, within 60 days after receiving revised adopted parameters and guidelines from the commission or other information necessitating a revision of the claiming instructions, prepare and issue revised claiming instructions for mandates that require state reimbursement that have been established by commission action pursuant to Section 17555 or after any decision or order of the commission pursuant to Section 17551. In preparing revised claiming instructions, the Controller may request the assistance of other state agencies. (d) This section shall become operative on July 1, 1996.

**GC §17558.5: Reimbursement claim; Audit; remittance advice and other notices of payment**

(a) A reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter is subject to audit by the Controller no later than two years after the end of the calendar year in which the reimbursement claim is filed or last amended. However, if no funds are appropriated for the program for the fiscal year for which the claim is made, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. (b) The Controller shall notify the claimant in writing within 30 days after issuance of a remittance advice of any adjustment to a claim for reimbursement that results from an audit or review. The notification shall specify the claim components adjusted, the amounts adjusted, and the reason for the adjustment. Remittance advice and other notices of payment action shall not constitute notice of adjustment from an audit or review. (c) Nothing in this section shall be construed to limit the adjustment of payments when inaccuracies are determined to be the result of the intent to defraud, or when a delay in the completion of an audit is the result of willful acts by the claimant or inability to reach agreement on terms of final settlement. (d) This section shall become operative on July 1, 1996.

**GC §17558.6: Legislative intent**

It is the intent of the Legislature that the Commission on State Mandates review its process by which local agencies may appeal the reduction of reimbursement claims on the basis that the reduction is incorrect in order to provide for a more expeditious and less costly process.

**GC §17559: Judicial Review**

(a) The commission may order a reconsideration of all or part of a test claim or incorrect reduction claim on petition of any party. The power to order reconsideration or amend a test claim decision shall expire 30 days after the statement of decision is delivered or mailed to the claimant. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of the 30-day period, the commission may grant a stay of that expiration for no more than 30 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied. (b) A claimant or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the commission on the ground that the commission's decision is not supported by substantial evidence. The court may order



the commission to hold another hearing regarding the claim and may direct the commission on what basis the claim is to receive a rehearing.

#### **GC §17560: Deadlines for filing reimbursement claims**

Reimbursement for state-mandated costs may be claimed as follows: (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year or it may comply with the provisions of subdivision (b). (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that detail the costs actually incurred for that fiscal year. (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of Section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.

#### **GC §17561: Reimbursement of costs for state mandated programs**

(a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514. (b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows: (A) Any statute mandating these costs shall provide an appropriation therefor. (B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts. (2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 that includes the amounts awarded relating to these chaptered bills or executive orders. (c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement. (d) The Controller shall pay any eligible claim pursuant to this section within 60 days after the filing deadline for claims for reimbursement or 15 days after the date the appropriation for the claim is effective, whichever is later. The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows: (1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies pursuant to Section 17558. Issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission. (A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17555 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions. (B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller. (C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable. (2) In subsequent fiscal years each

local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years. (3) When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. All initial reimbursement claims for all fiscal years required to be filed on their initial filing date for a state-mandated local program shall be considered as one claim for the purpose of computing any late claim penalty. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount that would have been allowed had the claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars (\$1,000). The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case shall a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill.

#### GC §17561.5: Payment of claim with interest

(a) The payment of an initial reimbursement claim by the Controller shall include accrued interest at the Pooled Money Investment Account rate, if the payment is being made more than 365 days after adoption of the statewide cost estimate for an initial claim or, in the case of payment of a subsequent claim relating to that same statute or executive order, if payment is being made more than 60 days after the filing deadline for, or the actual date of receipt of, the subsequent claim, whichever is later. In those instances, interest shall begin to accrue as of the 366th day after adoption of the statewide cost estimate for an initial claim and as of the 61st day after the filing deadline for, or actual date of receipt of, the subsequent claim, whichever is later. (b) This section shall become operative on July 1, 1996.

#### GC §17561.6: Payment

(a) A budget act item or appropriation pursuant to this part for reimbursement of claims shall include an amount necessary to reimburse any interest due pursuant to Section 17561.5. (b) This section shall become operative on July 1, 1996.

#### GC §17562: Review of costs of state-mandated local program

(a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of the cumulative effects of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to establish a method for regularly reviewing the costs of state-mandated local programs, by evaluating the benefit of previously enacted mandates. (b) (1) A statewide association of local agencies or a Member of the Legislature may submit a proposal to the Legislature recommending the elimination or modification of a state-mandated local program. To make such a proposal, the association or member shall submit a letter to the Chairs of the Assembly Committee on Local Government and the Senate Committee on Local Government specifying the mandate and the concerns and recommendations regarding the mandate. The association or member shall include in the proposal all information relevant to the conclusions. If the chairs of the committees desire additional analysis of the submitted proposal, the chairs may refer the proposal to the Legislative Analyst for review and comment. The chairs of the committees may refer up to a total of 10 of these proposals to the Legislative Analyst for review in any year. Referrals shall be submitted to the Legislative Analyst by December 1 of each year. (2) The Legislative Analyst shall review and report to the Legislature with regard to each proposal that is referred to the office pursuant to paragraph (1). The Legislative Analyst shall recommend that the Legislature adopt, reject, or modify the proposal. The report and recommendations shall be submitted annually to the Legislature by March 1 of the year subsequent to the year in which referrals are submitted to the Legislative Analyst. (3) The Department of Finance shall review all statutes enacted each year that contain provisions making inoperative Section 2229 or Section 2230 of the Revenue and Taxation Code

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or Section 17561 or Section 17565 that have resulted in costs or revenue losses mandated by the state that were not identified when the statute was enacted. The review shall identify the costs or revenue losses involved in complying with the provisions of the statutes. The Department of Finance shall also review all statutes enacted each year that may result in cost savings authorized by the state. The Department of Finance shall submit an annual report of the review required by this subdivision, together with the recommendations as it may deem appropriate, by December 1 of each year. (c) It is the intent of the Legislature that the Assembly Committee on Local Government and the Senate Committee on Local Government hold a joint hearing each year regarding the following: (1) The reports and recommendations submitted pursuant to subdivision (b). (2) The reports submitted pursuant to Sections 17570, 17600, and 17601. (3) Legislation to continue, eliminate, or modifies any provision of law reviewed pursuant to this subdivision. The legislation may be by subject area or by year or years of enactment. (d) This section shall become operative on July 1, 1996.

**GC §17563: Use of funds received for public purpose**

Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose.

**GC §17564: Filing of claims: Threshold amount**

(a) No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed two hundred dollars (\$200) provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county. If the combined claim exceeds two hundred dollars (\$200) even if the individual school districts, direct service districts, or special districts claims do not each exceed two hundred dollars (\$200). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for dispersing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim. (b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines.

**GC §17565: Reimbursement of subsequently mandated costs**

If a local agency or a school district at its option has been incurring costs, which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate.

**GC §17567: Insufficiency of appropriation: Proration of claims**

In the event that the amount appropriated for reimbursement purposes pursuant to Section 17561 is not sufficient to pay all of the claims approved by the Controller, the Controller shall prorate claims in proportion to the dollar amount of approved claims timely filed and on hand at the time of proration. The Controller shall adjust prorated claims if supplementary funds are appropriated for this purpose. In the event that the Controller finds it necessary to prorate claims as provided by this section, the Controller shall immediately report this action to the Department of Finance, the Chairperson of the Joint Legislative Budget Committee, and the Chairperson of the respective committee in each house of the Legislature which considers appropriations in order to assure appropriation of these funds in the Budget Act. If these funds cannot be appropriated on a timely basis in the Budget Act, the Controller shall transmit this information to the commission which shall include these amounts in its report to the Legislature pursuant to Section 17600 to assure that an appropriation sufficient to pay the claims is included in the local government claims bills or other appropriation bills. If the local government claims bills required by Section 17612 have been introduced in the Legislature, the Controller shall report directly to the

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chairperson of the respective committee in each house of the Legislature, which considers appropriations to assure inclusion of a sufficient appropriation in the claims bills.

**GC §17566: Payment of claims submitted after deadline**

If a local agency or school district submits an otherwise valid reimbursement claim to the Controller after the deadline specified in Section 17560, the Controller shall reduce the reimbursement claim in an amount equal to 10 percent of the amount which would have been allowed had the reimbursement claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars (\$1,000). In no case shall a reimbursement claim be paid which is submitted more than one year after the deadline specified in Section 17560. Estimated claims that were filed by the deadline specified in that section shall be paid in full before payments are made on estimated claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay the estimated claims approved by the Controller, the Controller shall prorate those claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the commission or the Legislature in the same manner as described in Section 17566 in order to assure appropriation of funds sufficient to pay those claims.

**GC §17570: Annual report to Legislature**

The Legislative Analyst shall review each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. Any recommendations by the Legislative Analyst to eliminate or modify the mandates shall be contained in the annual analysis of the Budget Bill prepared by the Legislative Analyst.

**GC §17571: Review and modification of claiming instructions**

The commission, upon request of a local agency or school district, shall review the claiming instructions issued by the Controller or any other authorized state agency for reimbursement of mandated costs. If the commission determines that the claiming instructions do not conform to the parameters and guidelines, the commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the commission.

**GC §17575: Review of bills**

When a bill is introduced in the Legislature, and each time a bill is amended, on and after January 1, 1985, the Legislative Counsel shall determine whether the bill mandates a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution. The Legislative Counsel shall make this determination known in the digest of the bill and shall describe in the digest the basis for this determination. The determination by the Legislative Counsel shall not be binding on the commission in making its determination pursuant to Section 17555.

**GC §17576: Amendment of bills on floor: Notification by Legislative Counsel**

Whenever the Legislative Counsel determines that a bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, the Department of Finance shall prepare an estimate of the amount of reimbursement which will be required. This estimate shall be prepared for the respective committees of each house of the Legislature which consider taxation measures and appropriation measures and shall be prepared prior to any hearing on the bill by any such committee.

**GC §17577: Amount of estimates**

The estimate required by Section 17576 shall be the amount estimated to be required during the first fiscal year of a bill's operation in order to reimburse local agencies and school districts for costs mandated by the state by the bill.

**GC §17578: Amendment of bills on floor: Notification by Legislative Counsel**

In the event that a bill is amended on the floor of either house, whether by adoption of the report of a conference committee or otherwise, in such a manner as to mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, the Legislative Counsel shall immediately inform, respectively, the Speaker of the Assembly and the President of the Senate of that fact. Notification from the Legislative Counsel shall be published in the Journal of the respective houses of the Legislature.

**GC §17579: Requirement for new mandates to specify reimbursement requirements: Appropriations**

(a) Any bill introduced or amended on and after January 1, 1985, for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution, shall contain a section specifying that reimbursement shall be made from the fund pursuant to Section 17610 when the amount of the claim has been determined pursuant to Article 1 (commencing with Section 17650) of this chapter or that there is no mandate or that the mandate is being disclaimed and the reason therefor. (b) Any bill introduced or amended on and after January 1, 1985, may, but is not required to, contain an appropriation to provide reimbursement of costs mandated by the state.

**GC §17581: Conditions for exemption from implementation of statute or executive order**

(a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply: (1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution. (2) The statute or executive order, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements. (b) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities that benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency. (c) This section shall not apply to any state-mandated local program for the trial courts, as specified in Section 77203. (d) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

**GC §17600: Report on number of mandates and their costs**

At least twice each calendar year the commission shall report to the Legislature on the number of mandates it has found pursuant to Article 1 (commencing with Section 17650) and the estimated statewide costs of these mandates. This report shall identify the statewide costs estimated for each mandate and the reasons for recommending reimbursement.

**GC §17601: Report on claims denied**

The commission shall report to the Legislature on January 15, 1986, and each January 15 thereafter, on the number of claims it denied during the preceding calendar year and the basis on which the particular claims were denied.

**GC §17610: Costs paid from fund: Limit on costs**

(a) The costs arising from a statute containing a statement that the statute mandates a new program or higher level of service and specifying that reimbursement shall be made from the fund shall, upon certification of the estimated statewide cost by the commission to the Controller, be paid from the fund, provided that the estimated statewide cost of the claim does not exceed one million dollars (\$1,000,000). The Controller shall receive, review, and pay reimbursement claims from the fund as the claims are received. Claims for initial reimbursement shall be filed with the Controller within 120 days from the date that the Controller issued claiming instructions on mandates funded by the fund. When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated cost. Any claim for initial reimbursement filed after the filing deadline shall be reduced by 10 percent of the amount which would have been allowed had the claim been timely filed, provided that the amount of this reduction shall not exceed one thousand dollars (\$1,000). The Controller may withhold payment of any initial reimbursement claim filed after the filing deadline until the next deadline for funding claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. (b) For purposes of this section, "estimated statewide cost" means the total amount of funds estimated to be necessary to reimburse all eligible local agencies and school districts for costs incurred as a result of the mandate during the first 12-month period following the operative date of the mandate. (c) For purposes of this section, "costs arising from a statute" means the total amount of funds necessary to reimburse eligible local agencies and school districts for costs incurred as a result of complying with a mandate for the fiscal years specified in the parameters and guidelines in accordance with Section 17557.

**GC §17612: Local government claims bills: Judicial review of funding deletions**

(a) Immediately upon receipt of the report submitted by the commission pursuant to Section 17600, local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates except where the costs have been or will be paid pursuant to Section 17610. (b) The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature amends, modifies, or supplements the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement. (c) If the Legislature deletes from a local government claims bill funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement.

**GC §17613: Authorization of augmentation for mandated costs**

(a) The Director of Finance may, upon receipt of any report submitted pursuant to Section 17667, authorize the augmentation of the amount available for expenditure to reimburse costs mandated by the state, as defined in Section 17514, as follows: (1) For augmentation of (A) any schedule in any item to reimburse costs mandated by the state in any budget act, or (B) the amount appropriated in a local government claims bill, for reimbursement of the claims of local agencies, as defined by Section 17518, from the unencumbered balance of any other item to reimburse costs mandated by the state in that budget act or another budget act or in an appropriation for reimbursement of the claims of local agencies in another local government claims bill. (2) For augmentation of (A) any schedule in any budget act item, or (B) any amount appropriated in a local government claims bill, when either of these augmentations is for reimbursement of mandated claims of school districts, as defined in Section 17519, when the source of this augmentation is (A) the unencumbered balance of any other scheduled amount in that budget act or another budget act, or (B) an appropriation in another local government claims bill, when either of these appropriations is for reimbursement of mandate claims of school districts. This paragraph applies only to appropriations that are made for the purpose of meeting the minimum funding guarantee for educational programs pursuant to Section 8 of Article XVI of the California Constitution. (b) No authorization for an augmentation pursuant to this section may be made sooner than 30 days after the notification in writing of the necessity therefor to the chairperson of the committee in each house which



considers appropriations and the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time as the chairperson of the joint committee, or his or her designee, may in each instance determine.

#### **GC §17614: State Mandates Claims Fund**

There is hereby created the State Mandates Claims Fund. Notwithstanding Section 13340, money in the fund is continuously appropriated without regard to fiscal years for the sole purpose of paying claims pursuant to Section 17610.

#### **GC §17615: Legislative findings and intent**

The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for actual costs mandated by the state on an annual claim basis is time consuming, cumbersome, and expensive at both the local and state levels. The Controller must process voluminous claims with all claims subject to a desk audit and selected claims also subject to a field audit. Local agencies are required to maintain extensive documentation of all claims in anticipation of such an audit. The volume of these records is substantial and will continue to grow with no relief in sight as new programs are mandated. The cost to local agencies and school districts for filing claims and for maintaining documentation and responding to the Controller's audits is substantial. The current administrative cost to both state and local governments represents a significant expenditure of public funds with no apparent benefit to the taxpayers. It is the intent of the Legislature to streamline the reimbursement process for costs mandated by the state by creating a system of state mandate apportionment to fund the costs of certain programs mandated by the state.

#### **GC §17615.1: Review of programs for inclusion in system**

Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, the commission shall establish a procedure for reviewing, upon request, mandated cost programs for which appropriations have been made by the Legislature for the 1982-83, 1983-84, and 1984-85 fiscal years, or any three consecutive fiscal years thereafter. At the request of the Department of Finance, the Controller, or any local agency or school district receiving reimbursement for the mandated program, the commission shall review the mandated cost program to determine whether the program should be included in the State Mandates Apportionment System. If the commission determines that the State Mandates Apportionment System would accurately reflect the costs of the state mandated program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System.

#### **GC §17615.2: Calculation of disbursement amounts**

(a) Notwithstanding Section 17661, after November 30, 1985, for those programs included in the State Mandates Apportionment System, after approval by the commission, there shall be disbursed by the Controller to each local agency and school district which has submitted a reimbursement claim for costs mandated by the state in the 1982-83, 1983-84, and the 1984-85 fiscal years, or any three consecutive fiscal years thereafter, an amount computed by averaging the approved reimbursement claims for this three-year period. The amount shall first be adjusted according to any changes in the deflator. The deflator shall be applied separately to each year's costs for the three years, which comprise the base period. Funds for these purposes shall be available to the extent they are provided for in the Budget Act of 1985 and the Budget Act for any subsequent fiscal year thereafter. For purposes of this article, "base period" means the three fiscal years immediately succeeding the commission's approval. (b) When the Controller has made payment on claims prior to commission approval of the program for inclusion in the State Mandates Apportionment System, the payment shall be adjusted in the next apportionment to the amount which would have been subvented to the local agency or school district for that fiscal year had the State Mandates Apportionment System been in effect at the time of the initial payment.

## State of California

## School Mandated Cost Manual

**GC §17615.3: Annual recalculation of allocation**

Notwithstanding Section 17561, by November 30, 1986, and by November 30 of each year thereafter, for those programs included in the State Mandates Apportionment System, the Controller shall recalculate each allocation for each local agency and school district for the 1985-86 fiscal year, by using the actual change in the deflator for that year. That recalculated allocation shall then be adjusted by the estimated change in the deflator for the 1986-87 fiscal year, and each fiscal year thereafter, to establish the allocation amount for the 1986-87 fiscal year, and each fiscal year thereafter. Additionally, for programs approved by the commission for inclusion in the State Mandates Apportionment System on or after January 1, 1988, the allocation for each year succeeding the three-year base period shall be adjusted according to any changes in both the deflator and workload. The Controller shall then subvene that amount after adjusting it by any amount of overpayment or underpayment in the 1985-86 fiscal year, and each fiscal year thereafter, due to a discrepancy between the actual change and the estimated change in the deflator or workload. Funds for these purposes shall be available to the extent they are provided for in the Budget Act of 1986 and the Budget Act for any subsequent fiscal year thereafter. For purposes of this article, "workload" means, for school districts and county offices of education, changes in the average daily attendance; for community colleges, changes in the number of full-time equivalent students; for cities and counties, changes in the population within their boundaries; and for special districts, changes in the population of the county in which the largest percentage of the district's population is located.

**GC §17615.4: Procedure for newly mandated program**

(a) When a new mandate imposes costs which are funded either by legislation, in local government claims bills, or from the State Mandates Claim Fund, local agencies and school districts may file reimbursement claims as required by Section 17561, for a minimum of three years after the initial funding of the new mandate. (b) After actual cost claims are submitted for three fiscal years against such a new mandate, the commission shall determine, upon request of the Controller or a local entity or school district seeking reimbursement for the program, whether the amount of the base year entitlement adjusted by changes in the deflator and workload accurately reflects the costs incurred by the local agency or school district. If the commission determines that the base year entitlement, as adjusted, does accurately reflect the costs of the program, the commission shall direct the Controller to include the program in the State Mandates Apportionment System. (c) The Controller shall make recommendations to the commission and the commission shall consider the Controller's recommendations for each new mandate submitted for inclusion in the State Mandates Apportionment System. All claims included in the State Mandates Apportionment System pursuant to this section are also subject to the audit provisions of Section 17616.

**GC §17615.5: Procedure where no base year entitlement has been established**

(a) If any local agency or school district has an established base year entitlement which does not include costs for a particular mandate, that local agency or school district may submit reimbursement claims for a minimum of three consecutive years, adjusted pursuant to Section 17615.3 by changes in the deflator and workload, or entitlement claims covering a minimum of three consecutive years, after which time its base year entitlement may be adjusted by an amount necessary to fund the costs of that mandate. (b) If any local agency or school district has no base year entitlement, but wishes to begin claiming costs of one or more of the mandates included in the State Mandates Apportionment System, that local agency or school district may submit reimbursement claims for a minimum of three consecutive years, or entitlement claims covering the preceding three consecutive years, which shall be adjusted pursuant to Sections 17615.2 and 17615.3 by changes in the deflator and workload, after which time a base year entitlement may be established in an amount necessary to fund the costs of the mandate or mandates.

**GC §17615.6: Procedure where program is no longer mandatory**

If a local agency or school district realizes a decrease in the amount of costs incurred because a mandate is discontinued, or made permissive, the Controller shall determine the amount of the entitlement attributable to that mandate by determining the base year amount for that mandate for the local agency or



school district plus the annual adjustments. This amount shall be subtracted from the annual subvention which would otherwise have been allocated to the local agency or school district.

**GC §17615.7: Procedure where program is modified**

If a mandated program included in the State Mandates Apportionment System is modified or amended by the Legislature or by executive order, and the modification or amendment significantly affects the costs of the program, as determined by the commission, the program shall be removed from the State Mandate Apportionment System, and the payments reduced accordingly. Local entities or school districts may submit actual costs claims for a period of three years, after which the program may be considered for inclusion in the State Mandates Apportionment System, pursuant to the provisions of Section 17615.4.

**GC §17615.8: Review of base year entitlement**

(a) The commission shall establish a procedure for reviewing, upon request, any apportionment or base year entitlement of a local agency or school district. (b) Local agencies and school districts which request such a review shall maintain and provide those records and documentation as the commission or its designee determines are necessary for the commission or its designee to make the required determinations. With the exception of records required to verify base year entitlements, the records may not be used to adjust current or prior apportionment, but may be used to adjust future apportionment. (c) If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state does not accurately reflect the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission shall direct the Controller to adjust the apportionment accordingly. For the purposes of this section, an apportionment or a base year entitlement does not accurately reflect the costs incurred by a local agency or school district if it falls short of reimbursing, or over reimburses, that local agency's or school district's actual costs by 20 percent or by one thousand dollars (\$1,000), whichever is less. (d) If the commission determines that an apportionment or base year entitlement for funding costs mandated by the state accurately reflects the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the commission may, in its discretion, direct the Controller to withhold, and, if so directed, the Controller shall withhold the costs of the commission's review from the next apportionment to the local agency or school district, if the commission review was requested by the local agency or school district.

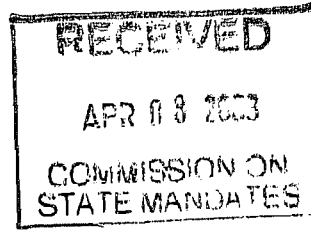
**GC §17615.9: Review of programs under SMAS**

The commission shall periodically review programs funded under the State Mandate Apportionment System to evaluate the effectiveness or continued statewide need for each such mandate.

**GC §17616: Audits and verification by Controller**

Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, the Controller shall have the authority to do either or both of the following: (a) Audit the fiscal years comprising the base year entitlement no later than three years after the year in which the base year entitlement is established. The results of such audits shall be used to adjust the base year entitlements and any subsequent apportionment based on that entitlement, in addition to adjusting actual cost payments made for the base years audited. (b) Verify that any local agency or school district receiving funds pursuant to this article is providing the reimbursed activities.





**ORIGINAL**

PUBLIC HEARING  
COMMISSION ON STATE MANDATES

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TIME: 9:32 a.m.  
DATE: Thursday, February 27, 2003  
PLACE: Commission on State Mandates  
State Capitol, Room 126  
Sacramento, California

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

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Reported By:

KAREN S. CHALLE  
CSR #8244, RPR



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A P P E A R A N C E S  
COMMISSIONERS PRESENT

ROBERT MIYASHIRO, Chair  
Representative of Steve Peace  
Director  
Department of Finance

WALTER BARNES, Chief Deputy State Controller  
Representative of Steve Westly  
State Controller

SHERRY WILLIAMS, Legislative Analyst  
Representative of Tal Finney  
Interim Director  
Office of Planning and Research

BRUCE VAN HOUTEN  
Representative of Philip Angelides  
State Treasurer

JOHN S. LAZAR  
City Council Member  
Turlock City Council

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COMMISSION STAFF PRESENT

PAULA HIGASHI, Executive Director

NANCY PATTON, Staff Services Manager

PAUL M. STARKEY, Chief Legal Counsel

CAMILLE SHELTON, Senior Staff Counsel

CATHY CRUZ, Associate Governmental Program Analyst

TINA POOLE, Associate Governmental Program Analyst

ERIC FELLER, Staff Counsel

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EXPERT WITNESS

CONNY JAMISON

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1           Okay, Paula.

2           MS. HIGASHI: The section item is Item 9, which  
3 this Item will be presented by Miss Tina Poole.

4           MS. POOLE: Good morning. Before you are the  
5 proposed amended parameters and guidelines, as modified by  
6 staff, for the Mandate Reimbursement Process program.

7           On March 27th, 1986 the Commission adopted the  
8 statement of decision for the Mandates Reimbursement  
9 Process Program. The test claim legislation allows local  
10 agencies and school districts to be reimbursed for costs  
11 incurred in preparing and presenting successful test claims  
12 to the Commission on State Mandates and submitting  
13 reimbursement claims to the State Controller's Office.  
14 Incorrect reduction claims are considered an element of  
15 reimbursement claims.

16           The original parameters and guidelines for this  
17 program were adopted on November 20, 1986. Each year, the  
18 Commission makes technical amendments to these parameters  
19 and guidelines to incorporate related language in the most  
20 recently enacted state budget act. This year, staff also  
21 included documentation language adopted by the Commission  
22 last month in the School Bus Safety II Program.

23           Staff recommends that the Commission adopt the  
24 proposed amended parameters and guidelines, beginning on  
25 page nine.

1 Will the parties and representatives please state  
2 their names for the record?

3 MR. BURDICK: Allan Burdick on behalf of the  
4 California State Association of Counties.

5 MR. SILVA: Shawn Silva, State Controller's  
6 Office.

7 MS. GEANACOU: Susan Geanacou, Department of  
8 Finance.

9 MR. ANDERSON: Dirk Anderson, Department of  
10 Finance.

11 CHAIR MIYASHIRO: Mr. Burdick.

12 MR. BURDICK: The issue on this one is  
13 essentially the same as we dealt with on the documentation  
14 issue. What I have is a -- a suggestion that the -- to be  
15 added to all of the parameters and guidelines. Since the  
16 real purpose is it appears to amend the State Controller's  
17 expectations as to what documentation they would like. I  
18 would like to see in there that this Commission grant the  
19 Controller the authority to establish alternatives to such  
20 things as time studies or other types of methodologies that  
21 have been approved on a mandate, you know, on each specific  
22 mandate, and include that in their claiming instructions,  
23 if they see so fit.

24 So in other words, what I'm saying is that you  
25 give -- you give the Controller the right to say if this

1 mandate -- if a time study makes sense, and that's the best  
2 way to do it, or some other alternative, developing a --  
3 you know -- a unit time which is clearly allowable under  
4 your thing -- under your rules, that we don't have to come  
5 back to you and ask to do an amendment to adopt the  
6 parameters and guidelines. That you grant that authority  
7 to the Controller, and you give them the right to say yes  
8 in the claiming instructions.

9           We can include alternatives which you'll meet;  
10 thereof, expectations which would include such things as  
11 time studies, unit times, unit costs, any other kinds of  
12 alternatives which meets their expectations. Because  
13 otherwise we're going to be back with this battle, and  
14 secondly it's going to save the state a lot of money.

15           And so you know, most of our objections on the  
16 things that we've -- we've -- we've asked to be pulled from  
17 consent are on this supporting documentation issue. And  
18 I -- and I think the best way to do that is to grant that  
19 authority to the Controller. Because I think that seems to  
20 be what is the concern, is the indications that they want  
21 to make sure that the documentation meets the expectations  
22 of the Controller. And I think if you grant that to them,  
23 and allow them to do that in the claiming instructions,  
24 that that would then save both you and your staff and  
25 every -- everybody else a lot of time and people coming



1 back with alternatives and requests for amendments to  
2 parameters and guidelines.

3 And I just want to remind you again, and Mr.  
4 Barnes -- and Commissioner Barnes can comment on this. We  
5 submitted those -- what we thought were friendly sets of  
6 P's and G's to clarify the investment reports, about --  
7 well, about 20 months ago, I guess it was. We had a  
8 discussion about 14 -- 15 months prior to that. And I  
9 think he can attest to the amount of time and effort that  
10 was spent trying to do that. And -- and I think that it  
11 would be, in this particular case, time much better spent  
12 in the local agency, if it were to sit down with a state  
13 controller, and if you authorize the state controller, if  
14 they found something, that a local government could --  
15 could convince them of, and that expectation that they  
16 would then be allowed to include that as an allowable way  
17 to document the cost of a -- of a particular mandate.

18 And this could be done on a mandate-by-mandate  
19 basis. Not something that's clearly across the board and  
20 eligible for everything, you know. Unless they wanted to  
21 do that. But we could sit with them and look at each  
22 mandate and say -- you know -- here's an alternative.  
23 Here's something that has been approved by the federal  
24 government, or here is something that the state con- --  
25 government does or has methodology that we have used for

1 years and -- and then put that in place.

2 One of the things that -- that we have is -- is --  
3 is from a county government standpoint, is legal  
4 subdivisions to the states. They may meet annually with a  
5 state controller, and they have joint committees where we  
6 try to work out standards and methodologies and practices  
7 between the counties and the state, to save both the state  
8 and the local government time.

9 And so it's -- the only thing I'm really  
10 requesting here is that you add a provision to parameters  
11 and guidelines granting the Controller the authority to be  
12 able to establish such documentation, such supporting  
13 documentation requirements.

14 Thank you.

15 MR. LAZAR: Do we have -- is that legal to do  
16 that? Or --

17 CHAIR MIYASHIRO: Let's go, on item --

18 MR. LAZAR: That's all.

19 CHAIR MIYASHIRO: Let's go with Mr. Barnes.

20 MR. BARNES: Sure. First off, I -- I -- I'd like  
21 to reinforce what Allan said about his office and county  
22 controllers coming to us and then working, I think, in the  
23 spirit of cooperation, and try and address the audit or the  
24 incorrect reduction claim issues that came up with -- in  
25 connection with the investment mandate. And I -- I

1 probably should have said that during the discussion that  
2 took place, but I appreciate you -- your giving me the  
3 opportunity to recognize you and -- and all of the  
4 treasurers for that effort. This, I think, was a  
5 productive way to address it.

6           With regard to your specific proposal, I actually  
7 think we already have that authority. And in fact, we're  
8 the ones that are charged with dealing with the  
9 instructions that go into the claiming instructions that  
10 basically surround the P's and G's documents. So I hear  
11 what you're saying. I think it's reasonable for us to take  
12 a look at that, and I will -- I would certainly welcome the  
13 opportunity to meet again with you and -- and other  
14 agencies, to see if that's possible to -- to provide that  
15 clarification.

16           I think to a certain extent our feeling is  
17 contemporaneous documents, you know, encompass a lot of  
18 things, including -- contemporaneous documents produced at  
19 the time encompass a number of things, including time  
20 studies that appropriately are developed. So maybe we need  
21 to get -- take a look at our claiming instructions  
22 associated with that, and -- and I'll -- I will commit to  
23 you that we will do so. And I don't think this needs to be  
24 part of the P's and G's, because I think P's and G's are  
25 broad enough that they encompass this kind of change.

1           We'll try to see what we can do.

2           MR. BURDICK: Okay. I -- that's wonderful news.  
3   And I hope that the legal office will agree. I know that  
4   there's -- as recent as yesterday, they had indicated that  
5   they are now simply using the parameters and guidelines as  
6   the means for which they then use to -- to determine  
7   claims. And if this language is in the P's and G's, then  
8   their legal office feels they're limited to that, you know.

9           I would agree. I clearly think you have the  
10   authority. But I just want to make sure that the legal  
11   office over there doesn't turn around and tell the -- tell  
12   the controller that they do not have the authority like  
13   they used to have in the past. And to establish those  
14   particular kinds of alternatives.

15           MR. BARNES: And again, I -- I would commit to you  
16   that I will meet, and we will talk about it. And I can't  
17   commit to you that -- how that will come out. Okay?

18           MR. BURDICK: Thank you very much.

19           MR. BARNES: All I can say is I understand what  
20   you're saying. I want us to take a look at it in  
21   connection with claiming instructions. And the only point  
22   I'm really trying to make is that I don't think it needs to  
23   be addressed with the P's and G's.

24           MR. BURDICK: Okay.

25           MR. BARNES: Thank you very much.

1 CHAIR MIYASHIRO: Mr. Lazar.  
2 MR. LAZAR: My question was answered.  
3 CHAIR MIYASHIRO: Do we have any other comments  
4 from the members of the audience? Members of the  
5 Commission?  
6 Entertain a motion on this?  
7 MS. WILLIAMS: Move we adopt the parameters and  
8 guidelines as modified by staff.  
9 MR. BARNES: Second.  
10 CHAIR MIYASHIRO: Motion and a second.  
11 Paula?  
12 MS. HIGASHI: Mr. Lazar?  
13 MR. LAZAR: Yes.  
14 MS. HIGASHI: Mr. Van Houton?  
15 MR. VAN HOUTON: Yes.  
16 MS. HIGASHI: Miss Williams?  
17 MS. WILLIAMS: Yes.  
18 MS. HIGASHI: Mr. Barnes?  
19 MR. BARNES: Yes.  
20 MS. HIGASHI: Mr. Miyashiro?  
21 CHAIR MIYASHIRO: Yes.  
22 MS. HIGASHI: Thank you.  
23 CHAIR MIYASHIRO: Our next item is the item 10.  
24 I'd like to just remind the witnesses to please identify  
25 yourself to assist the Court Reporter.

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA     )  
                                  )        ss.  
COUNTY OF SACRAMENTO    )

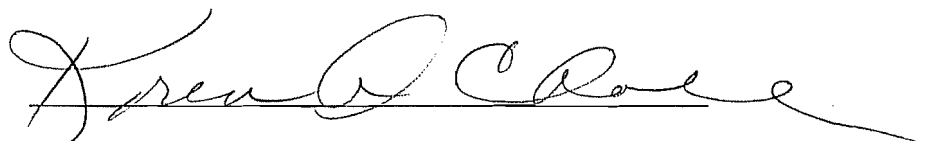
I, KAREN S. CHALLE, a Certified Shorthand Reporter, licensed by the state of California and empowered to administer oaths and affirmations pursuant to Section 2093 (b) of the Code of Civil Procedure, do hereby certify:

That the said proceedings were recorded stenographically by me and were thereafter transcribed under my direction via computer-assisted transcription;

That the foregoing transcript is a true record of the proceedings which then and there took place;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on March 6, 2003.



Karen S. Challe

Certified Shorthand Reporter No. 8244

## MINUTES

### COMMISSION ON STATE MANDATES

State Capitol, Room 126

Sacramento, California

February 27, 2003

Present: Chairperson Robert Miyashiro  
Representative of the Director of the Department of Finance  
Member Bruce Van Houten  
Representative of the State Treasurer  
Member Sherry Williams  
Representative of the Director of the Office of Planning and Research  
Member Walter Barnes  
Representative of the State Controller  
Member John Lazar  
City Council Member

Vacant: Local Elected Official  
Public Member

### CALL TO ORDER AND ROLL CALL

Chairperson Miyashiro called the meeting to order at 9:32 a.m.

### APPROVAL OF MINUTES

Item 1 January 23, 2003

Upon motion by Member Lazar and second by Member Williams, the minutes were adopted.  
Member Van Houten abstained.

### PROPOSED CONSENT CALENDAR

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS,  
TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

### PROPOSED STATEMENTS OF DECISION – TEST CLAIMS

- Item 4 *Teacher Incentive Program*, 99-TC-15  
San Diego Unified School District, Claimant  
Education Code Sections 44395 and 44396  
Statutes 1998, Chapter 331 (AB 858)
- Item 5 *Criminal Background Checks II*, 00-TC-05  
Napa County Office of Education, Claimant  
Education Code Sections 44830.1, 44830.2, 45125, 45125.01, and 45125.2  
Penal Code Sections 11077 and 11105.02  
Statutes 1972, Chapter 1437 (AB 1685)  
Statutes 1992, Chapter 1026 (SB 1769)  
Statutes 1998, Chapter 594 (AB 1392)  
Statutes 1998, Chapter 840 (AB 2102)  
Statutes 1999, Chapter 78 (AB 1115)

PROPOSED STATEMENTS OF DECISION INCORRECT REDUCTION CLAIMS

*Certification of Teacher Evaluator's Demonstrated Competence*

Education Code Section 35160.5

Statutes 1983, Chapter 498 (SB 813)

- Item 6      Manhattan Beach Unified School District, Claimant, 99-4136-I-03
- Item 7      Ventura County Office of Education, Hayward Unified School District, Kings Canyon Joint Unified School District, Visalia Unified School District, Salinas City Elementary School District, Conejo Valley Unified School District, Claremont Unified School District, Oak Grove Elementary School District, Ventura Unified School District, Oceanside City Unified School District, Roseville Joint Union High School District, Folsom Cordova Unified School District, Palmdale School District, Moreland Elementary School District, Novato Unified School District, Modesto City Schools, San Benito Union High School District, Manteca Unified School District, El Monte Elementary School District, Las Virgenes Unified School District, Del Norte County Unified School District, Glendale Unified School District, Garden Grove Unified School District, San Lorenzo Unified School District, Lompoc Unified School District, Mojave Unified School District, Lodi Unified School District, San Juan Unified School District, Los Altos Elementary School District, Salinas Union High School District, Los Angeles County Office of Education, Morgan Hill Unified School District, Fairfield-Suisun Unified School District, Ojai Unified School District, Bellflower Unified School District, Berryessa Union School District, Livingston Union School District, Whittier Union High School District, Claimants, 99-4136-I-01, -02, and -04 through -39

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

RULEMAKING, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

- Item 13      Proposed Order to Initiate Rulemaking: Proposed Amendments to California Code of Regulations, Title 2, Division 2, Chapter 2.5, Article 1. General, Article 3. Test Claims, Article 4. Mandates Recognized by the Legislature, Article 9. Conflict of Interest

Member Williams moved for adoption of the consent calendar, which consisted of items 4, 5, 6, 7, and 13. With a second by Member Lazar, the consent calendar was unanimously adopted.

HEARINGS AND DECISIONS, PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (action)

APPEAL OF EXECUTIVE DIRECTOR DECISION TO DENY REQUEST FOR POSTPONEMENT OF HEARING

- Item 2      *Standardized Account Code Structure*, 97-TC-17  
Brentwood Union School District, Appellant and Claimant  
Statutes 1993, Chapter 237 (SB 94)



Statutes 1995, Chapter 525 (AB 438)  
Statutes 1997, Chapter 299 (AB 1578)  
State Board of Education's Revision of the California  
School Accounting Manual (Part II)

Item 2 was withdrawn.

#### TEST CLAIM

Item 3      *Standardized Account Code Structure*, 97-TC-17  
Brentwood Union School District, Claimant  
Statutes 1993, Chapter 237 (SB 94)  
Statutes 1995, Chapter 525 (AB 438)  
Statutes 1997, Chapter 299 (AB 1578)  
State Board of Education's Revision of the California  
School Accounting Manual (Part II)

Item 3 was postponed because the claimant filed an amendment to the test claim.

#### **INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)**

##### **ADOPTION OF PROPOSED PARAMETERS AND GUIDELINES AND PROPOSED AMENDMENTS TO PARAMETERS AND GUIDELINES**

Item 8      Request to Amend Parameters and Guidelines  
*Investment Reports*, 00-PGA-02  
City of Newport Beach, Requestor  
Government Code Section 53646, subdivisions (a), (b), and (e)  
Statutes 1995, Chapter 783 (SB 564)  
Statutes 1996, Chapters 156 and 749 (SB 864 and SB 109)

Nancy Patton, Staff Services Manager, presented this item. She noted that the Commission approved the *Investment Reports* test claim in 1997. It imposed a reimbursable state-mandated program by requiring local agencies to render an annual statement of investment policy and to render quarterly reports of investments.

The staff analysis was broken into two parts. Regarding Part I. Reimbursable Activities, Ms. Patton stated that the City of Newport Beach submitted its proposed amendments to the parameters and guidelines on October 13, 2000. After four prehearing conferences, staff, with the assistance of Conny Jamison, expert consultant, reviewed all filings and comments on the proposal and prepared the final proposed amendments to the Reimbursable Activities section, as follows:

1. Delete the words "accumulating" and "accumulate" from section B. Quarterly Report Investments, part 1. Implementation Costs, and part 2. Ongoing Costs.
2. Limit reimbursement to activities related to each investment that is held on the last day of each quarter and included in a quarterly report of investments.
3. Add reimbursable activities to conform to the Statement of Decision and test claim statutes.
4. Specify non-reimbursable activities.

5. Reference costs reimbursements received by counties in the Offsetting Savings and Reimbursements section.

Ms. Patton indicated that claimants opposed the proposed modifications. She clarified that the issue before the Commission was whether the test claim statutes and the Statement of Decision authorize reimbursement for:

- Reporting information on all investments held in the portfolio throughout the quarterly reporting period,
- Maintaining subsidiary ledgers,
- Managing the investment function,
- Implementing local statements of investment policy,
- Compiling and preparing information to be included in monthly reports on investments and transactions, and
- Providing copies of the quarterly investment reports to their depositories.

Staff found that reimbursement for the claimant's proposed amendments exceed the test claim statutes and Statement of Decision.

Regarding Part II. Supporting Documentation, Ms. Patton noted that the Bureau of State Audits report on the *School Bus Safety II* audit recommended that the Commission work with the Controller, other affected state agencies, and interested parties to make sure that the language in the parameters and guidelines and claiming instructions reflect the Commission's intentions, as well as the Controller's expectations regarding supporting documentation. On January 23, 2003, the Commission adopted the proposed documentation language, which staff included in these parameters and guidelines for *Investment Reports*.

Staff recommended that the Commission approve the proposed amendments to the parameters and guidelines.

Parties were represented as follows: Pamela Stone and Glen Everroad, representing the City of Newport Beach; Vee-Jay Brann, for the County of Kings; Leonard Kaye, for the County of Los Angeles; Christopher Rieger, for the Los Angeles County Treasury; Allan Burdick, for the California State Association of Counties; Shawn Silva, for the State Controller's Office; and Susan Geanacou and Oscar Chaves, for the Department of Finance.

Testimony on Part I. Reimbursable Activities

Ms. Stone disagreed with staff's position that because an activity was not found in the Statement of Decision, that reimbursement should be limited to those activities related to each investment that is held on the last day of each quarter and included in a quarterly report of investments. She asserted that the Legislature delegated the development of an investment policy to the respective investment boards, treasuries, and chief fiscal officers. The governing board then adopts this policy. Thus, if the governing board requires a county to specify whether it was out of compliance during the reporting period, and not just four given days per year, the costs should be reimbursed.

Mr. Brann agreed with Ms. Stone. He added that the investment policy guided their investments at the County of Kings, noting that the guidelines described in the policy were used on a daily basis to measure compliance. The intent of the Legislature was for the treasurer to invest and be

in compliance with the investment policy at all times. Therefore, the report was not a point-in-time document.

Regarding the activity which states, "Obtaining and reporting current market value as of the date of the quarterly report, and reporting the source of this valuation for all investments held by the local agency and under management of any outside party..." Mr. Brann noted that at the County of Kings, some investments were managed by the county itself and not by any outside party. He suggested adding "and/or" before "under the management of any outside party."

Paula Higashi, Executive Director, stated that the final language of the test claim statutes do not include the word "or." Mr. Brann requested clarification as to the intent of staff regarding other revenue sources. Ms. Higashi said that the proposed amendments acknowledge in the Offsetting Savings section that some local entities, depending on their type, receive costs reimbursements.

Member Van Houten asked if the investment policy would remain the same today if the quarterly report did not exist. Mr. Brann noted that another piece of legislation requiring investment policies ended in 1991. After that point, counties were no longer required to have an investment policy. However, counties quite often maintained one anyway.

Mr. Kaye quoted several statements from Ms. Jamison's report that supported reimbursement for specific activities. He commented that the report was pertinent as it reflected a good understanding of the operational requirements of a treasurer's office in complying with the test claim legislation.

Mr. Rieger agreed with the comments made by Ms. Stone, Mr. Brann, and Mr. Kaye. He expressed concern that the staff proposal may lead other treasurers throughout California to think that compliance with the guidelines was not necessary the other days of the year. He asserted that the report was not a point-in-time document, and that problems may arise if investments were not monitored daily.

Member Van Houten asked if the county would still be doing cash flows if the quarterly report did not exist. Mr. Rieger stated that the legislation required a six-month projection, which was new. He indicated that because of the volume of investments in Los Angeles County, cash flow balancing would be done daily even if the quarterly report was not mandated. However, other counties may not. Member Van Houten stated that the Legislature mandated the quarterly report because the counties would not be doing investment reports or other functions otherwise.

Mr. Silva commented that the statute was really a sunshine law designed to expose the activities and performance of the treasurer's office to the public. He argued that the parameters and guidelines should be narrow enough to preclude pre-existing activities and duties, such as entering transactions on a daily basis. Such duties flow from the fiduciary duty of public commissioners and public trustees of public funds. He agreed that the obvious, additional activities required to generate and present a report to a board should be reimbursed.

In addition, Mr. Silva asserted that the statute does not direct that a local entity establish any specific standards as far as percentages of specific investments. Therefore, the performance of certain activities by local entities, such as daily reconciliation, was not driven by the statute, but rather by their choices of policies and limitations on specific investments.

Ms. Geanacou supported the staff analysis.

Regarding Member Van Houten's statement, Mr. Burdick commented that in measuring a mandate, the issue was not whether the county would have been performing the activities absent

the law, but whether they would have been required to do it. He also noted that the reason this item was before the Commission was because the parties needed clarification on the Commission's decision and specific issues.

Member Lazar requested comments on this legislation being a sunshine law. Mr. Burdick stated that a law was passed in the 1980s requiring monthly investment reports, with a provision that the law sunset, or be repealed, after five years. Then legislation was passed in 1995, which expanded upon the original mandate, and required quarterly reports. Ms. Jamison agreed that the law did sunset and noted that some agencies stopped producing reports while most continued because it was good practice. Paul Starkey, Chief Legal Counsel, clarified that the term "sunshine" means to bring government activities to light. He agreed with Mr. Silva that the purpose of this being a sunshine law was to expose the activities and performance of the treasurer's office to the public. Mr. Kaye also agreed that it was a sunshine law, noting that the intent of the Legislature was not just to tell citizens what was happening in the treasurer's office four days out of the year, but the entire year.

On the issue that local agencies should be reimbursed for reporting information required by the statement of investment policy, Ms. Higashi pointed out that the Commission made no findings on these provisions in the Statement of Decision, and therefore, the activity would exceed that scope of the Statement of Decision.

Mr. Burdick noted that Ms. Jamison concluded in her report that, although only mandated to report quarterly, the daily activities during that 90-day period were required. Ms. Higashi stated that the report by Ms. Jamison was produced for the Commission in preparation for the Los Angeles County incorrect reduction claim on *Investment Reports*, and it was not necessarily relevant on the issue before the Commission.

#### Testimony on Part II. Supporting Documentation

Ms. Patton repeated her opening statement regarding Part II. Supporting Documentation.

Ms. Stone indicated that the main problem related to the requirement for contemporaneous documentation for the tasks being performed. Her interpretation of the proposed supporting documentation language was that claimants must retroactively have a new labor distribution system such that the employees can record time spent performing specific mandated activities. She noted that most local government time-reporting systems were not that sophisticated.

Also, Ms. Stone asserted that most governmental entities would not be aware of a change in the reimbursable activities until receipt of the State Controller's claiming instructions. Since there is no notice or knowledge that time must be tracked, it is impossible to retroactively have contemporaneous documentation. Therefore, she requested that there be a different standard between the time that parameters and guidelines are adopted and the time that claiming instructions are issued.

Mr. Kaye agreed with Ms. Stone. He also mentioned that Elaine Howle, State Auditor, was concerned that the difference between source documents and corroborating documents was overly restrictive. For instance, a time study approach may be used after claiming instructions are issued. Regarding the certification section, he was unclear whether school districts should submit their own claims to the state, and if so, whether they would have the necessary personal knowledge regarding that information to sign off on the form.

As to supporting documentation, Mr. Rieger requested adding language indicating that some type of cost allocation system on a pro-rata basis could be used.

Ms. Patton stated that the law requires claimants to file reimbursement claims based on actual costs. She acknowledged that parameters and guidelines may not be adopted for several years after mandated programs have been implemented. However, if different documentation is necessary for the earlier years, claimants have the opportunity to make a proposal when submitting the initial parameters and guidelines. Regarding time studies, Ms. Patton noted that when new parameters and guidelines language was adopted in January 2002, it was stated that time studies could be used if an appropriate methodology was described.

Mr. Burdick commented that all local agencies objected to the language proposed by the State Controller's Office in response to the *School Bus Safety II* audit report. He argued that the documentation language went far beyond what the federal government required of the state, and thus, the state should not hold local government to such a standard. He asserted that this new requirement would cost the state more money and urged the Commission to take another look.

Ms. Higashi commented that no alternative proposals, such as the other methods described in the Office of Management and Budget Circular A-87 form, have been brought forward.

Mr. Silva agreed with the proposed language. He maintained that when an entity claims funds from the state, there has to be a certain level of assurance that the claim is accurate, and thus, there is a need for documentation.

Member Williams made a motion to adopt the staff analysis and recommendation. With a second by Member Barnes, the motion carried unanimously.

[At this time, a short break was taken.]

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| Item 9 | Proposed Amendment of Parameters and Guidelines<br><i>Mandate Reimbursement Process</i> , CSM-4485<br>Statutes 1975, Chapter 486 (AB 1375)<br>Statutes 1984, Chapter 1459 (SB 2337)<br>Statutes 1995, Chapter 303 (Budget Act of 1995) (AB 903)<br>Statutes 1996, Chapter 162 (Budget Act of 1996) (SB 1393)<br>Statutes 1997, Chapter 282 (Budget Act of 1997) (AB 107)<br>Statutes 1998, Chapter 324 (Budget Act of 1998) (AB 1656)<br>Statutes 1999, Chapter 50 (Budget Act of 1999) (SB 160)<br>Statutes 2000, Chapter 52 (Budget Act of 2000) (AB 1740)<br>Statutes 2001, Chapter 106 (Budget Act of 2001) (SB 739)<br>Statutes 2002, Chapter 379 (Budget Act of 2002) (AB 425) |
|--------|--|

Tina Poole, Program Analyst, presented this item. She noted that the Commission adopted the Statement of Decision for the *Mandate Reimbursement Process* program on March 27, 1986. The test claim legislation allows local agencies and school districts to be reimbursed for costs incurred in preparing and presenting successful test claims to the Commission and submitting reimbursement claims to the State Controller's Office. She added that incorrect reduction claims were considered an element of reimbursement claims.

The parameters and guidelines for this program were originally adopted on November 26, 1986. Ms. Poole stated that each year, the Commission makes technical amendments to these parameters and guidelines to incorporate related language in the most recently enacted state budget act. Staff recommended that the Commission adopt the proposed amendments, which included the documentation language adopted by the Commission for the *School Bus Safety II* program.

Parties were represented as follows: Allan Burdick, for the California State Association of Counties; Shawn Silva, for the State Controller's Office; and Susan Geanacou and Dirk Anderson, for the Department of Finance.

Mr. Burdick noted that a lot of time and effort was spent working with the Controller's Office trying to clarify the *Investment Reports* Parameters and Guidelines. He suggested that a provision be added to the parameters and guidelines granting the Controller the authority to establish alternatives to supporting documentation requirements, such as time studies and unit costs, and include them in the claiming instructions. This would save state and local government time, as well as future requests to amend parameters and guidelines.

Member Barnes acknowledged the effort put forth by Mr. Burdick's office to work out the issues with *Investment Reports*. Regarding Mr. Burdick's suggestion, he believed that the Controller already has the authority and that the issue does not need to be addressed by the parameters and guidelines. He explained that contemporaneous documents produced at the time encompass a number of things, including time studies developed appropriately. He made a commitment to look at their claiming instructions and to meet with the claimants and other agencies to provide clarification.

Member Williams made a motion to adopt the staff recommendation. With a second by Member Barnes, the motion carried unanimously.

- Item 10      Proposed Parameters and Guidelines  
                  *Immunization Records: Hepatitis B*, 98-TC-05  
                  Los Angeles County Office of Education, Claimant  
                  Education Code Section 48216  
                  Health and Safety Code Sections 120325, 120335, 120340, and 120375  
                  Statutes 1978, Chapter 325 (AB 2260); Statutes 1979, Chapter 435 (AB 805);  
                  Statutes 1982, Chapter 472 (SB 818); Statutes 1991, Chapter 984 (SB 407);  
                  Statutes 1992, Chapter 13 (AB 2798); Statutes 1994, Chapter 1172  
                  (AB 2971); Statutes 1995, Chapters 219 and 415 (AB 382 and SB 1360);  
                  Statutes 1996, Chapter 1023 (SB 1497); Statutes 1997, Chapters 855 and 882  
                  (SB 727 and AB 381)  
                  California Code of Regulations, Title 17, Sections 6020, 6035, 6040, 6055,  
                  6065, 6070, and 6075

Cathy Cruz, Program Analyst, presented this item. She noted that the Commission adopted the Statement of Decision for the *Immunization Records: Hepatitis B* test claim on August 24, 2000. The test claim legislation added mumps, rubella, and hepatitis B to the list of diseases an entering student must be immunized against prior to first admission into a school, and required hepatitis B immunizations for students entering the seventh grade. The test claim legislation also amended the monitoring, record keeping, reporting, and parent notification requirements relative to the enforcement of the pupil immunization requirements.

Ms. Cruz indicated that the claimant, Los Angeles County Office of Education, originally proposed uniform cost allowances. However, on July 10, 2002, the claimant withdrew its proposal because the California Department of Education, State Controller's Office, and Department of Finance asserted that the data provided was not representative of the state and could not be used to properly develop a statewide unit cost. Instead, the state agencies recommended reimbursing actual costs until a credible reimbursement rate could be developed. Therefore, the parameters and guidelines, as modified by staff, provide for reimbursing actual

costs for those new activities specifically required by *Immunization Records: Hepatitis B*.

The claimant concurred with staff's draft analysis and proposed parameters and guidelines issued on August 27, 2002. Staff recommended that the Commission adopt the proposed parameters and guidelines, which included the documentation language adopted by the Commission for the *School Bus Safety II* program.

Parties were represented as follows: Carol Berg, Education Mandated Cost Network, for the Los Angeles County Office of Education; Art Palkowitz, for the San Diego Unified School District; Pamela Stone, for the California State Association of Counties; Shawn Silva, for the State Controller's Office; and Susan Geanacou, Blake Johnson, and Cheryl Black, for the Department of Finance.

Dr. Berg supported the staff recommendation. She noted that an effort to satisfy the Department of Finance and State Controller's Office regarding the survey was unsuccessful. Thus, the claimant agreed to go with actual costs for three years, at which time a reasonably accurate unit cost may be established. *Immunization Records: Hepatitis B* may then be proposed for inclusion in the State Mandates Apportionment System along with *Immunization Records*.

Mr. Palkowitz commented that the supporting documentation language related to declarations signed under penalty of perjury was new and may create future problems. He stated that he was not aware that this type of standard existed and asserted that this would create a higher threshold that was not done by other state government bodies.

Chairperson Miyashiro requested the State Controller's Office to comment. Mr. Silva noted that the declaration language was from the Code of Civil Procedure. By definition, it includes a penalty of perjury statement. He said that the Controller's Office was not against someone making a declaration under "penalty of perjury of information, knowledge, or belief." He explained that the goal was to comply with the definition of a declaration under the Code of Civil Procedure and to recognize that the declaration could be based on information and belief.

Chairperson Miyashiro asked if the penalty of perjury statement was included purposefully. Mr. Silva replied that it was included as part of the proposal for the supporting documentation language in *Investment Reports* and *School Bus Safety II*.

Mr. Palkowitz noted that while Mr. Silva states that the Controller's Office was not against someone making a declaration under "penalty of perjury of information, knowledge, or belief," auditors only accept what is written in the parameters and guidelines. Thus, it was difficult for claimants to use verbal agreements as supporting evidence. Dr. Berg agreed.

Mr. Johnson supported the proposed parameters and guidelines.

Chairperson Miyashiro said that he asked this item be removed from the consent calendar to discuss, specifically, supporting documentation and reimbursement based on actual costs. Moving toward a system where an appropriate reimbursement rate is negotiated and put forth in the front end would result in auditing to find out whether or not the activities were actually provided rather than whether or not the performed activities were reimbursable according to the parameters and guidelines. He asserted that the inefficiencies of the current process, which takes an inordinate amount of time and relies on subsequent audits, justify re-thinking of how things are done.

Chairperson Miyashiro noted that currently, a unit rate of \$5.15 was provided for *Immunization Records*. Rather than experiencing a contentious debate three years later about expenses and

costs already incurred, he stated that he would like to explore the marginal cost of the new duties imposed, given that there was some base level of activity. Those new figures would be brought back to the Commission for consideration as a unit reimbursement rate.

Dr. Berg supported the unit cost approach, as well as the State Mandates Apportionment System process, which was underutilized. She stated that she would be happy to work with the Department of Finance and State Controller's Office to get any of the existing mandates into that system.

Chairperson Miyashiro clarified that he was not endorsing the survey data submitted by the claimant for this program because there were some problems. However, he wanted to see work up front to determine what reasonable costs there might be. His goal was to set forth a system that promotes some level of efficiency locally.

Ms. Stone encouraged that there be a process established so that unit rates could be used more. Members Lazar and Williams were supportive of establishing such a process.

Chairperson Miyashiro directed staff, with the participation of other departmental staff, to bring back a figure after considering everything that was available and that had been provided, as well as the amounts currently being paid.

Ms. Higashi stated that following the hearing, the parties would set a date for a meeting to discuss the issues raised. Dr. Berg noted that the claimant did not want to miss the budget round this year.

Member Barnes requested clarification as to what the action was. Ms. Higashi clarified that staff was taking the item back and would return with a new proposal. Chairperson Miyashiro reiterated his direction that staff propose a figure.

Item 11      Proposed Parameters and Guidelines  
                  *Presidential Primaries 2000*, 99-TC-04  
                  County of Tuolumne, Claimant  
                  Statutes 1999, Chapter 18 (SB 100)  
                  Elections Code Sections 15151 and 15375

Nancy Patton, Staff Services Manager, presented this item. She noted that the Commission adopted the Statement of Decision for the *Presidential Primaries 2000* program on October 25, 2001. The test claim legislation was enacted to ensure that California's presidential primary delegates would be recognized at the national party convention in the year 2000. The test claim legislation also requires local election officials to transmit both semi-final and final election results for presidential primaries in two separate tallies to the Secretary of State: First, the total number of votes each candidate received; and second, the number of votes each candidate received from registered voters of each political party and from "declines-to-state" voters.

Staff modified the proposed parameters and guidelines as follows:

- Deleted activities to analyze the test claim legislation and respond to public inquiries because neither the test claim legislation nor the Statement of Decision supported reimbursement of these activities.
- Clarified that training was necessary since this was a new elections process conducted by both permanent employees and temporary poll workers. However, training was limited to one-time per employee and to costs solely related to this program.



- Clarified that although this program was only conducted for the 2000 primary election, the test claim statutes have not been repealed, and therefore, the parameters and guidelines must provide for the possibility of reimbursement.
- Narrowed the language regarding purchasing elections materials to limit reimbursement to included documentation language adopted by the Commission last month in the *School Bus Safety II* program.

Staff recommended that the Commission adopt the proposed parameters and guidelines, as modified by staff.

Parties were represented as follows: Pamela Stone and Tim Johnson, for the County of Tuolumne; Tom Lutzenberger and Susan Geanacou, for the Department of Finance; and Shawn Silva, for the State Controller's Office.

Ms. Stone commented that although this mandate was instituted for the March 2000 primary, absent repeal, they could have it again in 2004. Since it would be four years since employees performed this activity, Ms. Stone requested the provision to allow training only one-time per employee be changed to allow local government to re-train these employees.

Ms. Stone also stated that the original parameters and guidelines submitted by the County of Tuolumne addressed the issue of documentation. She commented that the modifications to the documentation language would require that they have contemporaneous time records for March 2000, which was in excess of three years after the date in which the election was held. Because it would be difficult to get retroactively contemporaneous documentation, Ms. Stone requested that the original language with regard to source documentation be used.

Mr. Johnson stated that there was a need to provide public information and education to the voters, and therefore, there should be some consideration taken into the parameters and guidelines for that responsibility.

Mr. Lutzenberger supported the staff analysis. It was noted in their analysis that additional public education; aside from instructional material, specifically how to use the ballot, and its ramifications; was discretionary with regards to this mandate.

Mr. Lutzenberger noted that this mandate was filed in 1999, which was before the presidential primary of 2000. Although one county filed the test claim, this was a process all counties paid attention to, as it affects their ability to request and claim reimbursement on mandated activities. It was reasonable to expect that, knowing that the test claim was going through the process, there would be an expectation to hold onto source documentation.

Mr. Silva concurred with the staff analysis.

Member Barnes requested clarification on the bill itself. He stated his understanding that the bill was limited to activities performed in 2000. Ms. Stone clarified that the bill amended the manner in which people could vote in a presidential primary, but it was not limited to just the March 2000 primary. Ms. Stone added that the legislation had not been repealed even though there was subsequent legislation that changed how one can vote in a primary.

Mr. Starkey stated that staff viewed the bill as limited both in scope and duration. He stated that the way the statute was set up, there was language that might be read to keep a requirement. He added that it did not appear that the requirement would happen again unless the Legislature does something to resurrect it in a new bill. Mr. Starkey further stated that with respect to training, this was one case where it should remain one-time. If there is a subsequent change, an

amendment could be made.

Member Van Houten asked if the county had interpreted this as one-time legislation. Mr. Johnston stated that it became one-time because the Supreme Court ruled Proposition 198 unconstitutional. Member Van Houten asked whether it was reasonable to expect counties to maintain records. Ms. Stone responded that the county will have documentation concerning a re-programming of their system for the one vote, two count requirement, however most entities were not going to have contemporaneous time records.

Member Williams made a motion to adopt the staff recommendation. With a second by Member Van Houten, the motion carried unanimously.

Item 12      Request to Amend Parameters and Guidelines  
                 *Absentee Ballots*, 02-PGA-02  
                 Legislature, Requestor  
                 Elections Code Sections 3003 and 3024  
                 Statutes 1978, Chapter 77 (AB 1699)  
                 Statutes 2002, Chapter 1032 (AB 3005)

Cathy Cruz, Program Analyst, presented this item. She noted that the Board of Control, predecessor agency to the Commission on State Mandates, adopted the Statement of Decision for the *Absentee Ballots* program on June 17, 1981. The test claim legislation required that absentee ballots be available to any registered voter.

Mr. Cruz explained that Statutes 2002, chapter 1032 (AB 3005) was enacted on September 28, 2002, and requires the Commission to amend these parameters and guidelines to delete "school districts," as defined by Government Code section 17519, from the list of eligible claimants. Rather than billing school districts when county election officials provide them with election services, the bill requires counties to claim reimbursement for those costs under the mandates process.

Staff recommended that the Commission adopt the proposed amendments, which included the changes as required by AB 3005, the documentation language adopted by the Commission for the *School Bus Safety II* program, and other technical revisions.

Parties were represented as follows: Allan Burdick, for the California State Association of Counties; Shawn Silva, for the State Controller's Office; and Tom Lutzenberger and Susan Geanacou, for the Department of Finance.

Mr. Burdick noted his opposition to the supporting documentation language. He also noted that very few mandates have been put into the State Mandates Apportionment System, and thus, efforts should be made to use the system.

Mr. Lutzenberger and Mr. Silva concurred with the staff analysis.

Member Williams made a motion to adopt the staff recommendation. With a second by Member Van Houten, the motion carried unanimously.

## **EXECUTIVE DIRECTOR'S REPORT**

Item 14      Workload and Next Agenda

Ms. Higashi noted that the *Healthy School Act of 2000* test claim would be moved to the May agenda. Also, a prehearing conference was held on the request to amend the *Handicapped and Disabled Students* Parameters and Guidelines.

Item 15 Pending Legislation: SB 93 – Alpert (info/action)

Ms. Higashi indicated that Senate Bill 93 was a cleanup bill introduced by Senator Alpert to address necessary technical changes made by Assembly Bill 3000, a budget trailer bill. Senate Bill 93 includes provisions that specifically affect the Commission's jurisdiction over test claims, the subject matter of the Commission's reports to the Legislature, and how the State Controller's Office does interest calculations if over-payments were made. This matter was placed before the Commission to determine if the members wished to take a position on the bill or if they wished staff to communicate with the author's office regarding suggested amendments.

After some discussion, a majority of the members decided not to take a position of support or opposition since they represented other state agencies. They asked that staff communicate with the author's office to identify problems.

Allan Burdick, on behalf of the California State Association of Counties, asserted that the bill had problems and that it limited the Commission's authority.

**PUBLIC COMMENT**

Allan Burdick, on behalf of the California State Association of Counties, informed the Commission that a request for reconsideration on the amendment to the *School Bus Safety II* Parameters and Guidelines was filed and that staff determined that they did not have specific authority to reconsider that item. He argued that nothing precluded them from doing so.

Mr. Starkey explained that the Executive Director's decision not to put the request on the agenda was based on the form of the request to put the matter on the agenda, which was characterized as a reconsideration. Staff's response was that the Commission could not reconsider the matter. He noted that they were informed of their right to appeal the Executive Director's decision.


After further debate, Chairperson Miyashiro stated that he did not want to pursue any further discussion regarding the Commission's authority to reconsider the matter.

**CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 and 17526.**

The Commission did not meet in closed executive session since Mr. Starkey indicated that there were no new developments.

**ADJOURNMENT**

Hearing no further business and upon motion by Member Lazar, Chairperson Miyashiro adjourned the meeting at 12:20 p.m.



PAULA HIGASHI  
Executive Director



**COMMISSION ON STATE MANDATES**

980 NINTH STREET, SUITE 300

SACRAMENTO, CA 95814

T: (916) 323-3562

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E-mail: csminfo@csm.ca.gov



March 5, 2003

Mr. Mike Havey, Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 95 8 16

*And Affected State Agencies and Interested Parties (see enclosed mailing list)*


**RE:** Amended Parameters and Guidelines  
Mandate Reimbursement Process, CSM-4485  
Statutes 1975, Chapter 486  
Statutes 1984, Chapter 1459  
Statutes 1995, Chapter 303 (Budget Act of 1995)  
Statutes 1996, Chapter 162 (Budget Act of 1996)  
Statutes 1997, Chapter 282 (Budget Act of 1997)  
Statutes 1998, Chapter 324 (Budget Act of 1998)  
Statutes 1999, Chapter 50 (Budget Act of 1999)  
Statutes 2000, Chapter 52 (Budget Act of 2000)  
Statutes 2001, Chapter 106 (Budget Act of 2001)  
Statutes 2002, Chapter 379 (Budget Act of 2002)

Dear Mr. Havey:

On February 27, 2003, the Commission on State Mandates adopted the enclosed amended parameters and guidelines.

If you have any questions, please contact Nancy Patton at (916) 323-8217.

Sincerely,

  
PAULA HIGASHI  
Executive Director

Enclosure

J:/mandates/csm4000/4485/2002/022703adoptpgtrns

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE AMENDMENT TO PARAMETERS  
AND GUIDELINES ON:

Statutes 1975, Chapter 486; Statutes 1984,  
Chapter 1459; Statutes 1995, Chapter 303  
(Budget Act of 1995); Statutes 1996, Chapter  
162 (Budget Act of 1996); Statutes 1997,  
Chapter 282 (Budget Act of 1997); Statutes  
1998, Chapter 324 (Budget Act of 1998);  
Statutes 1999, Chapter 50 (Budget Act of  
1999); Statutes 2000, Chapter 52 (Budget Act  
of 2000); Statutes 2001, Chapter 106 (Budget  
Act of 2001); Statutes 2002, Chapter 379  
(Budget Act of 2002)

No. CSM-4485

*Mandate Reimbursement Process*

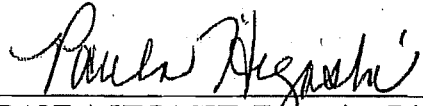
ADOPTION OF AMENDMENT TO  
PARAMETERS AND GUIDELINES  
PURSUANT TO GOVERNMENT CODE  
SECTION 17557 AND TITLE 2,  
CALIFORNIA CODE OF REGULATIONS,  
SECTIONS 1183.2 AND 1185.3.

*(Adopted on February 27, 2003)*

**AMENDED PARAMETERS AND GUIDELINES**

On February 27, 2003, the Commission on State Mandates adopted the attached Amended Parameters and Guidelines.

This Decision shall become effective on March 5, 2003.

  
\_\_\_\_\_  
PAULA HIGASHI, Executive Director

## Amended Parameters and Guidelines

Statutes 1975, Chapter 486

Statutes 1984, Chapter 1459

Statutes 1995, Chapter 303 (Budget Act of 1995)

Statutes 1996, Chapter 162 (Budget Act of 1996)

Statutes 1997, Chapter 282 (Budget Act of 1997)

Statutes 1998, Chapter 324 (Budget Act of 1998)

Statutes 1999, Chapter 50 (Budget Act of 1999)

Statutes 2000, Chapter 52 (Budget Act of 2000)

Statutes 2001, Chapter 106 (Budget Act of 2001)

Statutes 2002, Chapter 379 (Budget Act of 2002)

### *Mandate Reimbursement Process*

[For fiscal years 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, and 2002-2003 only, these parameters and guidelines are amended, pursuant to the requirements of: (1) provision 11 of Item 0840-001-001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1995; (2) provision 9 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1996; (3) provision 9 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1997; (4) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1998; (5) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 1999, (6) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 2000, (7) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 2001; and (8) provision 8 of Item 0840-001-0001, and provision 1 of Item 8885-001-0001 of the Budget Act of 2002, to include Appendix A,]

### *Mandate Reimbursement Process*

Adopted: November 20, 1986

First Amendment Adopted: March 26, 1987

Second Amendment Adopted: October 26, 1995

Third Amendment Adopted: January 30, 1997

Fourth Amendment Adopted: September 25, 1997

Fifth Amendment Adopted: October 29, 1998

Sixth Amendment Adopted: September 30, 1999

Seventh Amendment Adopted: September 28, 2000

Eighth Amendment Adopted: October 25, 2001

Ninth Amendment Adopted: February 27, 2003

## **I. SUMMARY OF THE MANDATE**

Statutes 1975, chapter 486, established the Board of Control's authority to hear and make determinations on claims submitted by local governments that allege costs mandated by the state. In addition, Statutes 1975, chapter 486 contains provisions authorizing the State Controller's Office to receive, review, and pay reimbursement claims for mandated costs submitted by local governments.

Statutes 1984, chapter 1459, created the Commission on State Mandates (Commission), which replaced the Board of Control with respect to hearing mandate cost claims. This law established the "sole and exclusive procedure" by which a local agency or school district is allowed to claim reimbursement as required by article XIII B, section 6 of the California Constitution for state mandates under Government Code section 17552.

Together these laws establish the process by which local agencies receive reimbursement for state-mandated programs. As such, they prescribe the procedures that must be followed before mandated costs are recognized. They also dictate reimbursement activities by requiring local agencies and school districts to file claims according to instructions issued by the Controller.

On March 27, 1986, the Commission determined that local agencies and school districts incurred "costs mandated by the state" as a result of Statutes 1975, chapter 486, and Statutes 1984, chapter 1459. Specifically, the Commission found that these two statutes imposed a new program by requiring local governments to file claims in order to establish the existence of a mandated program as well as to obtain reimbursement for the costs of mandated programs.

## **II. ELIGIBLE CLAIMANTS**

Any local agency as defined in Government Code section 175 18, or school district as defined in Government Code section 175 19, which incurs increased costs as a result of this mandate is eligible to claim reimbursement of those costs.

## **III. PERIOD OF REIMBURSEMENT**

Pursuant to Government Code section 17560, reimbursement for state-mandated costs may be claimed as follows:

- (a) A local agency or school district may file an estimated reimbursement claim by January 15 of the fiscal year in which costs are to be incurred, and, by January 15 following that fiscal year shall file an annual reimbursement claim that details the costs actually incurred for that fiscal year; or it may comply with the provisions of subdivision (b).
- (b) A local agency or school district may, by January 15 following the fiscal year in which costs are incurred, file an annual reimbursement claim that details the costs actually incurred for that fiscal year.
- (c) In the event revised claiming instructions are issued by the Controller pursuant to subdivision (c) of section 17558 between October 15 and January 15, a local agency or school district filing an annual reimbursement claim shall have 120 days following the issuance date of the revised claiming instructions to file a claim.



Reimbursable actual costs for one fiscal year shall be included in each claim. Estimated costs for the subsequent year may be included on the same claim, if applicable. Pursuant to Government Code section 17561 (d)(1), all claims for reimbursement of initial years' costs shall be submitted within 120 days of the issuance of the State Controller's claiming instructions. If the total costs for a given fiscal year do not exceed \$1,000, no reimbursement shall be allowed, except as otherwise allowed by Government Code section 17564.

#### IV. REIMBURSABLE ACTIVITIES

To be eligible for mandated cost reimbursement for any fiscal year, only actual costs may be claimed. Actual costs are those costs actually incurred to implement the mandated activities. Actual costs must be traceable and supported by source documents that show the validity of such costs, when they were incurred, and their relationship to the reimbursable activities. A source document is a document created at or near the same time the actual cost was incurred for the event or activity in question. Source documents may include, but are not limited to, employee time records or time logs, sign-in sheets, invoices, and receipts.

Evidence corroborating the source documents may include, but is not limited to, worksheets, cost allocation reports (system generated), purchase orders, contracts, agendas, training packets, and declarations. Declarations must include a certification or declaration stating, "I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct based upon personal knowledge." Evidence corroborating the source documents may include data relevant to the reimbursable activities otherwise in compliance with local, state, and federal government requirements. However, corroborating documents cannot be substituted for source documents.

The claimant is only allowed to claim and be reimbursed for increased costs for reimbursable activities identified below. Increased cost is limited to the cost of an activity that the claimant is required to incur as a result of the mandate.

For each eligible claimant, the following activities are reimbursable:

##### A. Scope of Mandate

Local agencies and school districts filing successful test claims and reimbursement claims incur state-mandated costs. The purpose of this test claim is to establish that local governments cannot be made financially whole unless all state mandated costs -- both direct and indirect -- are reimbursed. Since local costs would not have been incurred for test claims and reimbursement claims but for the implementation of state-imposed mandates, all resulting costs are recoverable.

##### B. Reimbursable Activities

###### 1. Test Claims

All costs incurred by local agencies and school districts in preparing and presenting successful test claims are reimbursable, including those same costs of an unsuccessful test claim if an adverse Commission ruling is later reversed as a result of a court order. These activities include, but are not limited to, the following: preparing and presenting test claims, developing parameters and guidelines, collecting cost data, and helping with the drafting of

required claiming instructions. The costs of all successful test claims are reimbursable.

Costs that may be reimbursed include the following: salaries and benefits, materials and supplies, consultant and legal costs, transportation, and indirect costs.

## 2. Reimbursement Claims

All costs incurred during the period of this claim for the preparation and submission of successful reimbursement claims to the State Controller are recoverable by the local agencies and school districts. Allowable costs include, but are not limited to, the following: salaries and benefits, service and supplies, contracted services, training, and indirect costs.

Incorrect Reduction Claims are considered to be an element of the reimbursement process. Reimbursable activities for successful incorrect reduction claims include the appearance of necessary representatives before the Commission on State Mandates to present the claim, in addition to the reimbursable activities set forth above for successful reimbursement claims.

## 3. Training

### a. Classes

Include the costs of classes designed to assist the claimant in identifying and correctly preparing state-required documentation for specific reimbursable mandates. Such costs include, but are not limited to, salaries and benefits, transportation, registration fees, per diem, and related costs incurred because of this mandate. (One-time activity per employee.)

### b. Commission Workshops

Participation in workshops convened by the Commission is reimbursable. Such costs include, but are not limited to, salaries and benefits, transportation, and per diem. This does not include reimbursement for participation in rulemaking proceedings.

## v. CLAIM PREPARATION AND SUBMISSION

Each of the following cost elements must be identified for each reimbursable activity identified in Section IV, Reimbursable Activities, of this document. Each claimed reimbursable cost must be supported by source documentation as described in Section IV. Additionally, each reimbursement claim must be filed in a timely manner.

### A. Direct Cost Reporting

Direct costs are those costs incurred specifically for the reimbursable activities. The following direct costs are eligible for reimbursement.

#### 1. Salaries and Benefits

Report each employee implementing the reimbursable activities by name, job classification, and productive hourly rate (total wages and related benefits divided by productive hours). Describe the specific reimbursable activities performed and the hours devoted to each reimbursable activity performed.

## 2. Materials and Supplies

Report the cost of materials and supplies that have been consumed or expended for the purpose of the reimbursable activities. Purchases shall be claimed at the actual price after deducting discounts, rebates, and allowances received by the claimant. Supplies that are withdrawn from inventory shall be charged on an appropriate and recognized method of costing, consistently applied.

## 3. Contract Services

Report the name of the contractor and services performed to implement the reimbursable activities. Attach a copy of the contract to the claim. If the contractor bills for time and materials, report the number of hours spent on the activities and all costs charged. If the contract is a fixed price, report the dates when services were performed and itemize all costs for those services.

## 4. Fixed Assets and Equipment

Report the purchase price paid for fixed assets and equipment (including computers) necessary to implement the reimbursable activities. The purchase price includes taxes, delivery costs, and installation costs. If the fixed asset or equipment is also used for purposes other than the reimbursable activities, only the pro-rata portion of the purchase price used to implement the reimbursable activities can be claimed.

## 5. Travel

Report the name of the employee traveling for the purpose of the reimbursable activities. Include the date of travel, destination point, the specific reimbursable activity requiring travel, and related travel expenses reimbursed to the employee in compliance with the rules of the local jurisdiction. Report employee travel time according to the rules of cost element A. 1, Salaries and Benefits, for each applicable reimbursable activity.

## 6. Training

Report the cost of training an employee to perform the reimbursable activities, as specified in Section IV of this document. Report the name and job classification of each employee preparing for, attending, and/or conducting training necessary to implement the reimbursable activities. Provide the title, subject, and purpose (related to the mandate of the training session), dates attended, and location. If the training encompasses subjects broader than the reimbursable activities, only the pro-rata portion can be claimed. Report employee training time for each applicable reimbursable activity according to the rules of cost element A.1, Salaries and Benefits, and A.2, Materials and Supplies. Report the cost of consultants who conduct the training according to the rules of cost element A.3, Contracted Services.

## B. Indirect Cost Reporting

### 1. Local Agencies

Indirect costs are costs that are incurred for a common or joint purpose, benefiting more than one program, and are not directly assignable to a particular department or program without efforts disproportionate to the result achieved. Indirect costs may include both (1) overhead costs of the unit performing the mandate; and (2) the costs of the central government services

distributed to the other departments based on a systematic and rational basis through a cost allocation plan.

Compensation for indirect costs is eligible for reimbursement utilizing the procedure provided in the Office of Management and Budget (OMB) Circular A-87. Claimants have the option of using 10% of direct labor, excluding fringe benefits, or preparing an Indirect Cost Rate Proposal (ICRP) if the indirect cost rate claimed exceeds 10%.

If the claimant chooses to prepare an ICRP, both the direct costs (as defined and described in OMB Circular A-87 Attachments A and B) and the indirect costs shall exclude capital expenditures and unallowable costs (as defined and described in OMB A-87 Attachments A and B). However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, major subcontracts, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

In calculating an ICRP, the Claimant shall have the choice of one of the following methodologies:

- a. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) classifying a department's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected; or
- b. The allocation of allowable indirect costs (as defined and described in OMB Circular A-87 Attachments A and B) shall be accomplished by (1) separating a department into groups, such as divisions or sections, and then classifying the division's or section's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate that is used to distribute indirect costs to mandates. The rate should be expressed as a percentage which the total amount allowable indirect costs bears to the base selected.

## 2. School Districts

Indirect costs are costs that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned to other activities, as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been claimed as a direct cost.

Indirect costs include: (a) the indirect costs originating in each department or agency of the governmental unit carrying out state mandated programs, and (b) the costs of central

governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

School districts must use the J-380 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

### 3. County Offices of Education

County offices of education must use the J-580 (or subsequent replacement) non-restrictive indirect cost rate provisionally approved by the California Department of Education.

### 4. Community College Districts

Community colleges have the option of using: (1) a federally approved rate, utilizing the cost accounting principles from the Office of Management and Budget Circular A-2 1, "Cost Principles of Educational Institutions"; (2) the rate calculated on State Controller's Form FAM-29C; or (3) a 7% indirect cost rate.

## VI. RECORD RETENTION

Pursuant to Government Code section 17558.5, subdivision (a), a reimbursement claim for actual costs filed by a local agency or school district pursuant to this chapter' is subject to the initiation of an audit by the Controller no later than three years after the date that the actual reimbursement claim is filed or last amended, whichever is later. However, if no funds are appropriated or no payment is made to a claimant for the program for the fiscal year for which the claim is filed, the time for the Controller to initiate an audit shall commence to run from the date of initial payment of the claim. All documents used to support the reimbursable activities, as described in Section IV, must be retained during the period subject to audit. If an audit has been initiated by the Controller during the period subject to audit, the retention period is extended until the ultimate resolution of any audit findings.

## VII. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimant experiences in the same program as a direct result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate from any source, including but not limited to, services fees collected, federal funds, and other state funds, shall be identified and deducted from this claim.

## VIII. STATE CONTROLLER'S CLAIMING INSTRUCTIONS

Pursuant to Government Code section 17558, subdivision (b), the Controller shall issue claiming instructions for each mandate that requires state reimbursement not later than 60 days after receiving the adopted parameters and guidelines from the Commission, to assist local agencies and school districts in claiming costs to be reimbursed. The claiming instructions shall be derived from the statute or executive order creating the mandate and the parameters and guidelines adopted by the Commission.

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<sup>1</sup>This refers to Title 2, division 4, part 7, chapter 4 of the Government Code.

Pursuant to Government Code section 1756 1, subdivision (d)(1), issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the Commission.

#### IX. REMEDIES BEFORE THE COMMISSION

Upon request of a local agency or school district, the Commission shall review the claiming instructions issued by the State Controller or any other authorized state agency for reimbursement of mandated costs pursuant to Government Code section 17571. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission shall direct the Controller to modify the claiming instructions and the Controller shall modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.

In addition, requests may be made to amend parameters and guidelines pursuant to Government Code section 17557, subdivision (a), and California Code of Regulations, title 2, section 1183.2.

(Continue to Appendix A)

## PARAMETERS AND GUIDELINES

Statutes 1975, Chapter 486

Statutes 1984, Chapter 1459

### APPENDIX A

Limitation on Reimbursement for Independent Contractor Costs During Fiscal Years  
1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001,  
2001-2002, and 2002-2003<sup>2</sup>

- A. If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.

The maximum amount of reimbursement provided in subdivision (a) for an independent contractor may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.

- B. Costs incurred for contract services and/or legal counsel that assist in the preparation, submission and/or presentation of claims are recoverable within the limitations imposed under A. above. Provide copies of the invoices and/or claims that were paid.' For the preparation and submission of claims pursuant to Government Code sections 17561 and 17564, submit an estimate of the actual costs that would have been incurred for that purpose if performed by employees of the local agency or school district; this cost estimate is to be certified by the governing body or its designee.

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<sup>2</sup> The limitation added by (1) the Budget Act of 1995, Statutes 1995, chapter 303, in Item 0840-001-001, Provision 11, and in Item 8885-001-001, Provision 1, (2) the Budget Act of 1996, Statutes 1996, chapter 162, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, (3) the Budget Act of 1997, Statutes 1997, chapter 282, in Item 0840-001-0001, Provision 9, and in Item 8885-001-0001, Provision 1, and (4) the Budget Act of 1998, Statutes 1998, chapter 324, in Item 0840-001-0001, Provision 8, and Item 8885-001-0001, Provision 1, (5) the Budget Act of 1999, Statutes 1999, chapter 50, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (6) the Budget Act of 2000, Statutes 2000, chapter 52, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (7) the Budget Act of 2001, Statutes 2001, chapter 106, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, (8) the Budget Act of 2002, Statutes 2002, chapter 379, in Item 0840-001-0001, Provision 8, and in Item 8885-001-0001, Provision 1, is shown as part A. of this Appendix.

If reimbursement is sought for independent contractor costs that are in excess of [Test (1)] ten percent of the claims prepared and submitted by the independent contractor or [Test (2)] the actual costs that necessarily would have been incurred for that purpose if performed by employees or the local school district, appropriate documentation must be submitted to show that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district. Appropriate documentation includes the record of dates and time spent by staff of the contractor for the preparation and submission of claims on behalf of the local agency or school district, the contractor's billed rates, and explanation on reasons for exceeding Test (1) and/or Test (2). In the absence of appropriate documentation, reimbursement is limited to the lesser of Test (1) and/or Test (2). No reimbursement shall be pennitted for the cost of contracted services without the submission of an estimate of actual costs by the local agency or school district.



**DECLARATION OF SERVICE BY MAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 958 14.

March 5, 2003, I served the:

**Amended Parameters and Guidelines**

*Mandate Reimbursement Process, CSM-4485*

Statutes 1975, Chapter 486

Statutes 1984, Chapter 1459

Statutes 1995, Chapter 303 (Budget Act of 1995)

Statutes 1996, Chapter 162 (Budget Act of 1996)

Statutes 1997, Chapter 282 (Budget Act of 1997)

Statutes 1998, Chapter 324 (Budget Act of 1998)

Statutes 1999, Chapter 50 (Budget Act of 1999)

Statutes 2000, Chapter 52 (Budget Act of 2000)

Statutes 2001, Chapter 106 (Budget Act of 2001)

Statutes 2002, Chapter 379 (Budget Act of 2002)

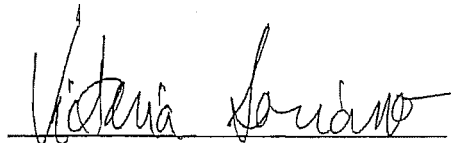
by placing a true copy thereof in an envelope addressed to:

Mr. Mike Havey, Bureau Chief  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Suite 500  
Sacramento, CA 958 16

State Agencies and Interested Parties (See attached mailing list);

and by sealing and depositing said envelope in the United States mail at Sacramento, California, with postage thereon fully paid.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on March 5, 2003, at Sacramento, California.

  
\_\_\_\_\_  
Victoria L. Lando

## Commission on State Mandates

Original List Date: 7/28/2000  
Last Updated: 2/11/2003  
List Print Date: 03/05/2003  
Claim Number: 4485  
Issue: Mandate Reimbursement

Mailing Information: Notice of adopted Ps & Gs

### Mailing List

#### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission, (Cal. Code Regs., tit. 2, § 1181.2.)

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Mr. Ram Venkatesan  
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Controller - Treasurer Department,  
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